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OFFICIAL GAZETTE

GOVERNMENT OF GOA

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

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Notification

10/3/2003-LA

The Finance Act, 2003 (Central Act No. 32 of 2003), which has been passed by the Parliament and assented to by the President of India on 14-5-2003 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 14-5-2003, is hereby published for general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 19th February, 2004.

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THE FINANCE ACT, 2003

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ARRANGEMENT OF SECTIONS

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THE FINANCE ACT, 2003

AN

ACT

to give effect to the financial proposals of the Central Government for the financial year 2003-2004.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

CHAPTER I
Preliminary

1. *Short title and commencement.— (1)* This Act may be called the Finance Act, 2003.

(2) Save as otherwise provided in this Act, sections 2 to 103 [except clause *(b)* of section 92] shall be deemed to have come into f orce on the 1st day of April, 2003.

CHAPTER II
Rates of Income-tax

2. *Income-tax.— (1)* Subject to the provisions of sub-sections *(2)* and *(3)*, for the assessment year commencing on the 1st day of April, 2003, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income -tax Act, 1961 (hereinafter referred to as the Income-43 of 1961.
-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause *(b)* [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate

income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause *(i)* shall be reduced by the amount of income-tax determined in accordance with sub-clause *(ii)* and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115 JB or sub-section *(1A)* of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section *(1)* or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharged for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that the amount of income-tax computed in accordance with the provisions of section 113 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule of the Finance Act of the year in which the search is initiated under section 132 or requisition is made under section 132A of the Income--tax Act :

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBB, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated at the rate of five per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub -section *(2)* of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in these sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of two and one-half per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194I, 194J, 196B, 196C and 194D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds rupees eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one half per cent. of such tax;

(c) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax whether the amount or the aggregate of such amounts collected and subject to the collection exceeds rupees eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one half per cent. of such tax;

(c) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(9) Subject to the provisions of sub-section *(10)*, in cases in which income-tax has to be charged under sub-section *(4)* of section 172 or sub-section *(2)* of section 174 or section 174A or section 175 or sub-section *(2)* of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115 JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A,B,C, D, or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax" where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such "advance tax";

(c) in the case of every artificial juridical person referred in Sub-Clause *(7)* of Clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such "advance tax".

(10) In cases to which, Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds fifty thousand rupees, then, in charging income-tax under sub-section *(2)* of section 174 or section 174A or section 175 or sub-section *(2)* of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account in the manner provided in clause *(b)* [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purposes of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be," advance tax" shall be so changed or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or "advance-tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause *(i)* shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause *(ii)* and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company

or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 2003, has made the prescribed arrangements for the declaration and payment within India of the dividends (including) dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

Direct Taxes

Income-tax

3. *Amendment of section 2.*— In section 2 of the Income-tax Act,—

(a) in clause *(24)*, in sub-clause *(xii),* for the word, brackets and figures "clause *(vii)*", the word, brackets, figure and letter "clause *(va)*" shall be substituted;

(b) in clause *(42A)*, in *Explanation 1*, in clause *(i),* after sub-clause *(g),* the following sub-clauses shall be inserted with effect from the 1st day of April, 2004, namely:—

"(h) in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause *(xiii)* of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

(ha) in the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause *(xiii)* of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;".

4. *Amendment of section 6.*— In section 6 of the Income-tax Act, for clause *(6)*, the following clause shall be substituted with effect from the 1st day of April, 2004, namely:—

'(6) A person is said to be "not ordinarily resident" in India in any previous year if such person is—

(a) an individual who has been a non-resident in India in nine out of the ten previous year preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or

(b) a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous year preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less.'.

5. *Amendment of section 9.*— In section 9 of the Income-tax Act, in sub-section *(1)*, in clause *(i)*, the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanations* shall be inserted with effect from the 1st day of April, 2004, namely:—

'*Explanation 2.*— For the removal of doubts, it is hereby declared that "business connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

(a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or

(b) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(c) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident:

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such brokery general commission agent or any other agent having an independent status is acting in the ordinary course of his business:

Provided further that where such broker, general commission agent or any other agent works mainly or

wholly on behalf of a non-resident (hereafter in this proviso referred to as the principal non-resident) or on behalf of such non-resident and other non-residents which are controlled by the principal non-resident or have a controlling interest in the principal non-resident or are subject to the same common control as the principal non-resident, he shall not be deemed to be a broker, general commission agent or an agent of an independent status.

Explanation 3.— Where a business is carried on in India through a person referred to in clause *(a)* or clause *(b)* or clause *(c)* of *Explanation 2,* only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India.'.

6. *Amendment of section 10.*— In section 10 of the Income-tax Act,—

(a) In clause *(6C),* for the words "by way of fees", the words "by way of royalty or fees" shall be substituted with effect from the 1st day of April, 2004;

(b) in clause *(10C)*, with effect from the 1st day of April, 2004,—

(i) in the opening portion, for the words " any amount received by an employee of ", the words " any amount received or receivable by an employee of " shall be substituted;

(ii) for the words "at time of his voluntary retirement" the words "on his voluntary retirement " shall be substituted;

(c) for clause *(10D)*, the following shall be substituted with effect from the 1st day of April, 2004, namely:—

'(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—

(a) any sum received under sub-section *(3)* of section 80DD or sub-section *(3)* of setion 80DDA; or

(b) any sum received under a Keyman insurance policy; or

(c) any sum received under an insurance policy issued on or after the 1st day of April, 2003 in respect of which the premium payable for any of the year during the terms of the policy exceeds twenty per cent. of the actual capital sum assured:

Provided that the provisions of this sub-clause shall not apply to any sum received on the death of a person:

Provided further that for the purpose of calculating the actual capital sum assured under this sub-clause, effect shall be given to the *Explanation* to sub-section *(2A)* of section 88.

Explanation.— For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person;';

(d) in clause *(15),* in sub-clause *(iv),* in item *(g),* for the words "a loan agreement approved by the Central Government", the words, figures and letters "a loan agreement approved by the Central Government before the 1st day of June, 2003" shall be substituted with effect from the 1st day of April, 2004;

(e) in clause *(23BBD),* for the words, figures and letters" three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004", the words, figures and letters" seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008" shall be substituted with effect from the 1st day of April, 2004;

(f) in clause *(23C),* in the ninth proviso, for the figures "2003", the figures "2004" shall be substituted and shall be deemed to have been substituted with effect from the 3rd day of February, 2001;

(g) in clause *(23D)*, in the opening portion, for the words "any income of", the words, figures and letter "subject to the provisions of Chapter XIII-E, any income of" shall be substituted with effect from the 1st day of April, 2004;

(h) in clause *(23EB)*, for the words "Credit Guarantee Fund Trust for Small Scale Industries", the words "Credit Guarantee Fund Trust for Small Industries" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(i) in clause *(23FA),* for the words "dividends", the words, figures and letters "dividends, other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004;

(j) in clause *(23G),* —

(i) for the word "dividends", the words, figures and letter "dividends other than dividends referred 'to in section 115-O" shall be substituted with effect from the 1st day of April, 2004;

(ii) after the words, brackets, figures and letters "housing project referred to in sub-section *(10)* of section 80-IB", the words "or a hotel project or a

hospital Project" shall be inserted with effect from the 1st day of April, 2004;

(iii) in Explanation 1,—

(A) in clause *(a)*, for the portion beginning with the words "in the business of " and ending with the words "any infrastructure facility", the words "in the business referred to in this clause" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(B) in clause *(b),* for the portion beginning with the words "in the business of" and ending with the words "any infrastructure facility", the words "in the business referred to in this clause" shall be substituted and shall be deemed to have been substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(C) after clause *(f),* the following clauses shall be inserted with effect from the 1st day of April, 2004, namely:—

'(g) "hotel project" means a project for constructing a hotel of not less than three-star category as classified by the Central Government;

(h) "hospital project" means a project for constructing a hospital with at least one hundred beds for patients.';

(k) after clause *(26BB),* the following shall be inserted with effect from the 1st day of April, 2004, namely:—

'(26BBB) any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.

Explanation.—For the purposes of this clause,"ex--serviceman" means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependent upon such ex-serviceman immediately before his death or incapacitation;';

(l) after clause *(32),* the following clauses shall be inserted, namely:—

"(33) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 and where the transfer of such asset takes place on or after the 1st day of April, 2002;"; 58 of 2002.

(m) after clause *(33)* as so inserted, the following clauses shall be inserted with effect from the 1st day of April, 2004, namely:—

'*(34)* any income by way of dividends referred to in section 115-O;

(35) any income by way of,—

(a) income received in respect of the units of a Mutual Fund specified under clause *(23D);* or

(b) income received in respect of units from the Administrator of the specified undertaking; or

(c) income received in respect of units from the specified company:

Provided that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

Explanation.— For the purposes of this clause,—

(a) "Administrator" means the Administrator as referred to in clause *(a)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(b) "specified company" means a company as referred to in clause *(h)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(36) any income arising from the transfer of a longterm capital asset, being an eligible equity share in a company purchased on or after the 1st day of March, 2003 and before the 1st day of March, 2004 and held for a period of twelve months or more.

Explanation.— For the purposes of this clause,"eligible equity share" means,—

(i) any equity share in a company being a constituent of BSE-500 index of the stock Exchange, Mumbai as on the 1st day of March, 2003 and the transactions of purchase and sale of such equity share are entered into on a recognised stock exchange in India;

(ii) any equity share in a company allotted through a public issue on or after the 1st day of March, 2003 and listed in a recognised stock exchange in India before the 1st day of March, 2004 and the transaction of sale of

such share is entered into on a recognised stock exchange in India.'.

7. *Amendment of section 10A.*— In section 10A of the Income-tax Act,—

(a) for sub-section *(1A),* the following sub-sections shall be substituted with effect from the 1st day of April, 2004, namely:—

"(1A) Notwithstanding anything contained in sub-section *(1),* the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be,—

(i) hundred per cent. of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent. of such profits and gains for further two consecutive assessment years, and thereafter;

(ii) for the next three consecutive assessment years, so much of the amount not exceeding fifty per cent. of the profits as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Allowance Reserve Account") to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section *(1B).*

(1B) The deduction under clause *(ii)* of sub-section *(1A)* shall be allowed only if the following conditions are fulfilled, namely:—

(a) the amount credited to the Special Economic Zone Re-investment Allowance Reserve Account is to be utilised—

(i) for the purposes of acquiring new machinery or plant which is first put to use before the expiry of a period of three years next following the previous year in which the reserve was created; and

(ii) until the acquisition of new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be prescribed in this behalf, have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(1C) Where any amount credited to the Special Economic Zone Re-investment Allowance Reserve Account under clause *(ii)* of sub-section *(1A),*—

(a) has been utilised for any purpose other than those referred to in sub-section *(1B),* the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause *(i)* of clause *(a)* of sub-section *(1B)* the amount not so utilised, shall be deemed to be the profits,—

(i) in a case referred to in clause *(a),* in the year in which the amount was so utilised; or

(ii) in a case referred to in clause *(b)*, in the year immediately following the period of three years specified in sub-clause *(i)* of clause *(a)* of sub-section *(1B),*

and shall be charged to tax accordingly.";

(b) in sub-section *(4)*, for the word, brackets and figure "sub-section *(1)"*, the words, brackets, figures and letter "sub-sections *(1)* and *(1A)"* shall be substituted;

(c) in sub-section *(5)*, for the word, brackets and figure "sub-section *(1)*", the words "this section" shall be substituted;

(d) in sub-section *(6),*—

(A) in clause *(i),* after the words "relevant assessment years", the words, figures and letters "ending before the 1st day of April, 2001" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001;

(B) in clause *(ii)*, after the words "relevant assessment years", the words, figures, and letters, "ending before the 1st day of April, 2001" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001;

(e) after sub-section *(7)*, the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely:—

"(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.";

(f) sub-sections *(9)* and *(9A)* shall be omitted with effect from the 1st day of April, 2004;

(g) Explanation I shall be omitted with effect from the 1st day of April, 2004;

(h) after *Explanation 3*, the following *Explanation* shall be inserted at the end with effect from the 1st day of April, 2004, namely:—

'Explanation 4.— For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.'.

8. *Amendment of section 10B.*— In section 10B of the Income-tax Act,—

(a) in sub-section *(6)*, with effect from the 1st day of April, 2001,—

(A) in clause *(i)*, after the words "relevant assessment years", the words, figures and letters "ending before the 1st day of April, 2001" shall be inserted and shall be deemed to have been inserted;

(B) in clause *(ii),* after the words "relevant assessment years", the words, figures and letters "ending before the 1st day of April, 2001" shall be inserted and shall be deemed to have been inserted;

(b) after sub-section *(7)*, the followng sub-section shall be inserted with effect from the 1st day of April, 2004, namely:—

"(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.";

(c) sub-sections *(9)* and *(9A)* shall be omitted with effect from the 1st day of April, 2004;

(d) Explanation 1 shall be omitted with effect from the 1st day of April, 2004;

(e) after *Explanation 3,* the following *Explanation* shall be inserted at the end, with effect from the 1st day of April, 2004, namely:—

'Explanation 4.— For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.

9. *Amendment of section 10C.*— In section 10C of the Income-tax Act, after sub-section *(6)* and before the *Explanation,* the following proviso shall be inserted with effect from the 1st day of April, 2004, namely:—

"Provided that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent year.".

10. *Amendment of section 11.*— In section 11 of the Income-tax Act, in sub-section *(3A),* after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause *(b)* of sub-section *(2)*, is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause *(d)* of sub-section *(3)* in the year in which such trust or institution was dissolved.".

11. *Amendment of section 12.*— In section 12 of the Income-tax Act, in sub-section *(3),* for the figures "2003", the figures "2004", shall be substituted and shall be deemed to have been substituted with effect from the 3rd day of February, 2001.

12. *Amendment of section 13A.*— In section 13A of the Income-tax Act, after the words "Income from other sources or", the words "Capital gains or"shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1979.

13. *Amendment of section 16.* — In section 16 of the Income-tax Act, for clause *(i)*, the following clause shall be substituted with effect from the 1st day of April, 2004, namely:—

"(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause,—

(A) does not exceed five lakh rupees, a deduction of a sum equal to forty per cent. of the salary or thirty thousand rupees, whichever is less;

(B) exceeds five lakh rupees, a deduction of a sum of twenty thousand rupees; ".

14. *Amendment of section 30.*— In section 30 of the Income-tax Act, after clause *(c),* the following *Explana-*

tion shall be inserted with effect from the 1st day of April, 2004, namely:—

"*Explanation.*— For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause *(i),* and the amount paid on account of current repairs referred to in sub-clause *(ii),* of clause *(a)*, shall not include any expenditure in the nature of capital expenditure.".

15. *Amendment of section 31.*— In section 31 of the Income-tax Act, after clause *(ii),* the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely:—

"Explanation.— For the removal of doubts, it is hereby declared that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.".

16. *Amendment of section 33AB.*— In section 33AB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in the marginal heading, after the word "account", the words ",coffee development account and rubber development account" shall be inserted;

(b) for the words "Tea Deposit Account", wherever they occur, the words "Deposit Account" shall be substituted;

(c) in sub-section *(1)*,—

(i) in the opening portion,—

(A) for the words "growing and manufacturing tea", the words "growing and manufacturing tea or coffee or rubber" shall be substituted;

(B) for the words "furnishing the returns of his income", the words "the due date of furnishing the return of his income" shall be substituted;

(ii) in clause *(a),* for the words "approved in this behalf by the Tea Board", the words "approved in this behalf by the Tea Board or the Coffee Board or the Rubber Board" shall be substituted;

(iii) in clause *(b),* for the portion beginning with the words "deposited any amount" and ending with the words "approval of the Central Government,", the following shall be substituted, namely:—

"deposited any amount in an account (hereafter in this section referred to as the Deposit Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board or the Rubber Board, as the case may be (hereafter in this section referred to as the deposit scheme), with the previous approval of the Central Government,";

(d) for sub-section *(4),* the following sub-section shall be substituted, namely:—

'(4) Notwithstanding anything contained in sub--section *(3),*where any amount standing to the credit of the assessee in the special account or in the Deposit Account is released during any previous year by the National Bank or withdrawn by the assessee from the Deposit Account, and such amount is utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,

the whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.';

(e) in the *Explanation* occurring at the end, for clause *(a),* the following clauses shall be substituted, namely:—

'(a) "Coffee Board" means the Coffee Board constituted under section 4 of the Coffee Act, 1942; 7 of 1942.

(aa) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981; 61 of 1981.

(ab) "Rubber Board" means the Rubber Board constituted under sub-section *(1)* of section 4 of the Rubber Act, 1947;'. 24 of 1947.

17. *Amendment of section 33AC.*— In section 33AC of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in sub-section *(3),* in clause *(c)*, for the words "eight years",the words "three years"shall be substituted;

(b) after sub-section *(3)* and before the *Explanation*, the following sub-section shall be inserted, namely:—

"*(4)* Where the ship is sold or otherwise transferred

(other than in any scheme of demerger) after the expiry of the period specified in clause *(c)* of sub-section *(3)* and the sale proceeds are not utilised for the purpose of acquiring a new ship within a period of one year from the end of the previous year in which such sale or transfer took place, such sale proceeds shall be deemed to be the profits of the assessment year immediately following the previous year in which the ship is sold or transferred,".

18. *Amendment of section 36.*— In section 36 of the Income-tax Act, in sub-section *(1)*,—

(a) in clause *(iii)* and before the *Explanation,* the following proviso shall be inserted with effect from the 1st day of April, 2004, namely:—

'Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.";

(b) in clause *(viia),* in sub-clause *(a),* after the second proviso and before the *Explanation,* the following proviso shall be inserted with effect from the 1st day of April, 2004, namely:—

'Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession".';

(c) in clause *(x)*, for the words, brackets, figures and letters "any fund specified under clause *(23E)* of section 10," the words "any Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately"shall be substituted;

(d) after the *Explanation* below clause *(xi),* the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

'*(xii)* any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, constituted or established by a Central, State or Provincial Act for the objects and purposes authorised by the Act under which such corporation or body corporate was constituted or established.".

19. *Amendment of section 40.*— In section 40 of the Income-tax Act, in clause *(a)*, with effect from the 1st day of April, 2004,—

(a) for sub-clause *(i),* the following sub-clause shall be substituted, namely:—

'(i) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(A) outside India; or

(B) in India to a non-resident, not being a company or to a foreign company,

on which tax has not been deducted or, after deduction, has not been paid before the expiry of the time prescribed under sub-section *(1)* of section 200 and in accordance with other provisions of Chapter XVII-B:

Provided that where in respect of any such sum, tax has been deducted under Chapter XVII-B or paid in any subsequent year, such sum shall be allowed as a deduction on computing the income of the previous year in which such tax has been paid.

Explanation.— For the purposes of this sub-clause,—

(A) 'royalty' shall have the same meaning as in *Explanation* 2 to clause *(vi)* of sub-section *(1)* of section 9;

(B) "fees for technical services" shall have the same meaning as in *Explanation* 2 to cause *(vii)* of sub-section *(1)* of section 9;';

(b) for sub-clause *(iii),* the following sub-clause shall be substituted, namely:—

'(iii) any payment which is chargeable under the head "Salaries", if it is payable—

(A) outside India; or

(B) to a non-resident,

and if the tax has not been paid thereon not deducted therefrom under Chapter XVII-B;'.

20. *Amendment of section 43.*— In section 43 of the Income-tax Act, with effect from the 1st day of the April, 2004,—

(a) in clause *(3)*, after the words "but does not include tea bushes or livestock", the words "or buildings or furniture and fittings" shall be inserted;

(b) in clause *(6),* in *Explanation* 2B, the words "as appearing in the books of account" shall be omitted.

21. *Amendment of section 43B.*— In section 43B of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause *(e)*,—

(i) for the words "term loan", the words "loan or advances" shall be substituted;

(ii) for the words "such loan", the words " such loan or advances" shall be substituted;

(b) in the first proviso, the words, brackets and letters "referred to in clause *(a)* or clause *(c)* or clause *(d)* or clause *(e)* or clause *(f)*" shall be omitted;

(c) the second proviso shall be omitted.

22. *Amendment of section 44AA.*— In section 44AA of the Income-tax Act, in sub-section *(2)*, in clause *(iii),* after the word, figures and letters "section 44 AF", the words, figures, and letters "or section 44BB or section 44BBB" shall be inserted with effect from the 1st day of April, 2004.

23. *Amendment of section 44AB.* — In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause *(c),* after the words, figures and letters "section 44AF ", the word, figures and letters "or section 44BB or section 44BBB" shall be substituted;

(b) in the first proviso, for the words, figures and letters "section 44BB or section 44BBA or section 44BBB", the words, figures, and letters "section 44BBA" shall be substituted.

24. *Amendment of section 44AE.*— In section 44AE of the Income-tax Act, in sub-section *(1)*, after the words "who owns not more than ten goods carriages", the words "at any time during the previous year" shall be inserted with effect from the 1st day of April, 2004.

25. *Amendment of section 44BB.*—In section 44BB of the Income-tax Act, after sub-section *(2)* and before the *Explanation,* the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely:—

"(3) Notwithstanding anything contained in sub-section *(1)*, an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section *(2)* of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section *(3)* of section 143 and determine the sum payable by, or refundable to, the assessee.".

26. *Amendment of section 44BBB.*— In section 44BBB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) the existing section shall be numbered as sub-section *(1)* thereof and in sub-section *(1)* as so numbered, the words "and financed under any international aid programme" shall be omitted;

(b) after sub-section *(1)* as so numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section *(1),* an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section *(2)* of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section *(3)* of section 143 and determine the sum payable by, or refundable to, the assessee.".

27. *Amendment of section 44D* — In section 44D of the Income-tax Act, in clause *(b),* after the words, figures and letters "after the 31st day of March, 1976", the words figures and letters "but before the 1st day of April, 2003" shall be inserted with effect from the 1st day of April, 2004.

28. *Insertion of new section 44DA.*— After section 44D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

'44DA. *Special provisions for computing income by way of royalties, etc. in case of non-residents.*— *(1)* The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head "Prof-

its and gains of business or profession" in accordance with the provisions of this Act:

Provided that no deduction shall be allowed,—

(i) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(ii) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

(2) Every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the *Explanation* below sub-section *(2)* of section 288 and furnish along with the return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

Explanation.— For the purposes of this section,—

(a) "fees for technical services" shall have the same meaning as in *Explanation* 2 to clause *(vii)* of sub-section *(1)* of section 9;

(b) "royalty" shall have the same meaning as in *Explanation* 2 to clause *(vi)* of sub-section *(1)* of section 9;

(c) "permanent establishment" shall have the same meaning as in clause *(iiia)* of section 92F.'.

29. *Amendment of section 45.*— In section 45 of the Income-tax Act, in sub-section *(5),* after clause *(b)* and before the *Explanation,* the following clause shall be inserted with effect from the 1st day of April, 2004, namely:—

"(c) where in the assessment for any year, the capital gain arising from the transfer of a capital asset is computed by taking the compensation or consideration referred to in clause *(a)* or, as the case may be, enhanced compensation or consideration referred to in clause *(b)*, and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, such assessed capital gain of that year shall be recomputed by taking the compensation or consideration as so reduced by such court, Tribunal or other authority to be the full value of the consideration.".

30. *Amendment of section 47.*— In section 47 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause *(xiii),* for the word "corporatisation", wherever it occurs, the words "demutualisation or corporatisation" shall be substituted;

(b) after clause *(xiii)*, the following clause shall be inserted, namely:—

"(xiiia) any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;". 15 of 1992.

31. *Amendment of section 55.*— In section 55 of the Income-tax Act, in sub-section *(2)*, with effect from the 1st day of April, 2004,—

(a) in clause *(ab)*, for the word "corporatisation", the words "demutualisation or corporatisation" shall be substituted;

(b) after clause *(ab),* the following proviso shall be inserted, namely:—

"Provided that the cost of a capital asset, being trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*;".

32. *Amendment of section 57.*— In section 57 of the Income-tax Act, in clause *(i),* for the words "in the case of dividends", the words, figures and letters "in the case of dividends, other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004.

33. *Amendment of section 72A.*— In section 72A of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) for sub-sections *(1)* and *(2)*, the following sub-sections shall be substituted, namely:—

"*(1)* Where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in clause *(c)* of section 5 of the Banking Regulation Act, 1949 with a specified bank, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed 10 of 1949.

depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) Notwithstanding anything contained in sub-section *(1)*, the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless—

(a) the amalgamating company—

(i) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years;

(ii) has held continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation;

(b) the amalgamated company—

(i) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;

(ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation;

(iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.";

(b) in sub-section *(7),* after clause *(b)*, the following clause shall be inserted, namely:—

'(c) "specified bank" means the State Bank of India constituted under the State Bank of India Act, 1955 or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980.' 23 of 1955. 38 of 1959. 5 of 1970. 40 of 1980.

34. *Substitution of new section for section 80DD.*— For section 80DD of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

'80 DD. *Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability.— (1)* Where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year,—

(a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent, being a person with disability; or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in sub-section *(2)* and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of fifty thousand rupees from his gross total income in respect of the previous year:

Provided that where such dependant is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "fifty thousand rupees", the words "seventy-five thousand rupees" had been substituted.

(2) The deduction under clause *(b)* of sub-section *(1)* shall be allowed only if the following conditions are fulfilled, namely:—

(a) the scheme referred to in clause *(b)* of sub-section *(1)* provides for payment of annuity or lump sum amount for the benefit of a dependent, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;

(b) the assessee nominates either the dependent, being a person with disability or any other person or a trust to receive the payment on his behalf, for the benefit of the dependent, being a person with disability.

(3) If the dependant, being a person with disability, predeceases the individual or the member of the Hindu undivided family referred to in sub-section *(2)*, an amount equal to the amount paid or deposited under clause *(b)* of sub-section *(1)* shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(4) The assessee, claiming a deduction under this section, shall furnish a copy of the certificate issued by

the medical authority in the prescribed form and manner, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed:

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income.

Explanation.—For the purposes of this section,—

(a) "Administrator" means the Administrator as referred to in clause *(a)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(b) "dependent" means—

(i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;

(ii) in the case of a Hindu undivided family, a member of the Hindu undivided family,

dependent wholly or mainly on such individual or Hindu undivided family for his support and maintenance, and who has not claimed any deduction under section 80U in computing his total income for the assessment year relating to the previous year;

(c) "disability" shall have the meaning assigned to it in clause *(i)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(d) "Life Insurance Corporation" shall have the same meaning as in clause *(iii)* of sub-section *(8)* of section 88.

(e) "medical authority" means the medical authority as referred to in clause *(p)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(f) "person with disability" means a person as referred to in clause *(t)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(g) "person with severe disability" means a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section *(4)* of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(h) "Specified company" means a company as referred to in clause *(h)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal Act, 2002.'. 58 of 2002.

35. *Substitution of new section for section 80DDB.*— For section 80DDB of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

'80DDB. *Deduction in respect of medical treatment, etc.*— Where an assessee who is resident in India has, during the previous year, actually paid any amount for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board—

(a) for himself or a dependent, in case the assessee is an individual; or

(b) for any member of a Hindu undivided family, in case the assessee is a Hindu Undivided family,

the assessee shall be allowed a deduction of the amount actually paid or a sum of forty thousand rupees, which ever is less, in respect of that previous year in which such amount was actually paid:

Provided that no such deduction shall be allowed unless the assessee furnishes with the return of income, a certificate in such form, as may be prescribed, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed working in a Government hospital:

Provided further that the deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reinbursed by an employer, for the medical treatment of the person referred to in clause *(a)* or clause *(b)*:

Provided also that where the amount actually paid is in respect of the assessee or his dependent or any member of a Hindu undivided family of the assessee and who is a senior citizen, the provisions of this section shall have effect as if for the words "forty thousand rupees", the words "sixty thousand rupees" had been substituted.

Explanation.— For the purposes of this section,—

(i) "dependent" means—

(a) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them,

(b) in the case of a Hindu undivided family, a member of the Hindu undivided family,

dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance;

(ii) "Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants;

(iii) "insurer" shall have the meaning assigned to it in clause (*9)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(iv) "senior citizen" means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.'.

36. *Amendment of section 80G.*— In section 80G of the Income-tax Act, in sub-section *(5C),* with effect from the 3rd day of February, 2001,—

(a) in clause *(iii),* for the figures "2003" the figures "2004" shall be substituted and shall be deemed to have been substituted;

(b) in clause *(iv)*, for the figures "2003", at both the places where they occur, the figures "2004" shall be substituted and shall be deemed to have been substituted;

(c) in clause *(v),* for the figures "2003", the figures "2004" shall be substituted and shall be deemed to have been substituted.

37. *Amendment of section 80HHC.*— In section 80HHC of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in sub-section *(4),* the following proviso shall be inserted, namely:—

"Provided that in the case of an undertaking referred to in sub-section *(4C),* the assessee shall also furnish along with the return of income, a certificate from the undertaking in the special economic zone containing such particulars as may be prescribed, duly certified by the auditor auditing the accounts of the undertaking in the special economic zone under the provisions of this Act or under any other law for the time being in force.";

(b) after sub-section *(4B)* and before the *Explanation,* the following sub-section shall be inserted, namely:—

"*(4C)* The provisions of this section shall apply to an assessee,—

(a) for an assessment year beginning after the 31st day of March, 2004 and ending before the 1st day of April, 2005;

(*b)* who owns any undertaking which manufactures or produces goods or merchandise anywhere in India (outside any special economic zone) and sells the same to any undertaking situated in a special economic zone which is eligible for deduction under section 10A and such sale shall be deemed to be export out of India for the purposes of this section.";

(c) in the *Explanation* occurring at the end, after clause *(d),* the following clause shall be inserted, namely:—

'*(e)* "special economic zone" shall have the meaning assigned to it in clause *(viii)* of the *Explanation 2* to section 10A.'.

38. *Amendment of section 80-IA.*— In section 80-IA of the Income-tax Act,—

(i) in sub-section *(2),* for the words "or develops or develops and operates or maintains and operates a special economic zone", the words "or develops a special economic zone", shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(ii) in sub-section *(4)*,—

(a) in clause *(ii)*, for the figures, letters and words "31st day of March, 2003" the figures, letters and words "31st day of March, 2004" shall be substituted with effect from the 1st day of April, 2004;

(b) in clause *(iii),* for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002, namely:—

"Provided that in a case where an undertaking develops an industrial park on or after the 1st day of April, 1999 or a special economic zone on or after the 1st day of April, 2001 and transfers the operation and maintenance of such industrial park or such special economic zone, as the case may be, to another undertaking (hereinafter in this section referred to as the transferee undertaking), the deduction under sub-section *(1)* shall be allowed to such transferee undertaking for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee undertaking;".

39. *Amendment of section 80-IB.*— In section 80-IB of the Income-tax Act,—

(a) in sub-section *(4),* after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2004, namely:—

" Provided also that no deduction under this sub-section shall be allowed for the assessment year beginning on the 1st day of April, 2004 or any subsequent year to any undertaking or enterprises referred to in sub-section *(2)* of section 80-IC.";

(b) in sub-section *(8A),* in clause *(iii),* for the figures, letters and words "1st day of April, 2003", the figures, letters and words "1st day of April, 2004" shall be substituted with effect from the 1st day of April, 2004;

(c) in sub-section *(10)*, with effect from the 1st day of April, 2002,—

(i) in the opening portion, for the figures, letters and words "31st day of March, 2001", the figures, letters and words "31st day of March, 2005" shall be substituted and shall be deemed to have been substituted;

(ii) in clause *(a)*, the words, figures and letters "and completes the same before the 31st day of March, 2003" shall be omitted and shall be deemed to have been omitted;

(d) in sub-section *(11),* for the figures, letters and words "31st day of March, 2003", the figures, letters and words "1st day of April, 2004" shall be substituted with effect from the 1st day of April, 2004.".

40. *Insertion of new section 80-IC.*— After section 80-IB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

'80-IC. *Special provisions in respect of certain undertakings or enterprises in certain special category States.— (1)* Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprises from any business referred to in sub-section *(2),* there shall, in accordance with as subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains, as specified in sub-section *(3).*

(2) This section applies to any undertaking or enterprise,—

(a) which has begun or begins to manufacture or produce any article or thing, not being any article or thing specified in the Thirteenth Schedule, or which manufactures or produces any article or thing, not being any article or thing specified in the Thirteenth Schedule and undertakes substantial expansion during the period beginning—

(i) on the 23rd day of December, 2002 and ending before the 1st day of April, 2012, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in the State of Sikkim; or

(ii) on the 7th day of January, 2003 and ending before the 1st day of April, 2012, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in the State of Himachal Pradesh or the State of Uttaranchal; or

(iii) on the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in any of the North-Eastern States;

(b) which has begun or begins to manufacture or produce any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule, or which manufactures or produces any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule and undertakes substantial expansion during the period beginning—

(i) on the 23rd day of December, 2002, and ending before the 1st day of April, 2012, in the State of Sikkim; or

(ii) on the 7 th day of January, 2003 and ending before the 1st day of April, 2012, in the State of Himachal Pradesh or the State of Uttaranchal; or

(iii) on the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any of the North-Eastern States.

(3) The deduction referred to in sub-section *(1)* shall be—

(i) in the case of any undertaking or enterprise referred to in sub-clauses *(i)* and *(iii)* of clause *(a)* or sub-clauses *(i)* and *(iii)* of clause *(b),* of sub-section *(2)*,

one hundred per cent. of such profits and gains for ten assessment years commencing with the initial assessment year;

(ii) in the case of any undertaking or enterprise referred to in sub-clause *(ii)* of clause *(a)* or sub-clause *(ii)* of clause *(b),* of sub-section *(2),* one hundred per cent. of such profits and gains for five assessment years commencing with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains.

(4) This section applies to any undertaking or enterprise which fulfils all the following conditions, namely:—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence;

Provided that this condition shall not apply in respect of an undertaking which is formed as a result of the reestablishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of a machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanations* 1 and 2 to sub-section *(3)* of section 80-IA shall apply for the purposes of clause *(ii)* of this sub-section as they apply for the purposes of clause *(ii)* of that sub-section.

(5) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or in section 10A or section 10B, in relation to the profits and gains of the undertaking or enterprise.

(6) Notwithstanding anything contained in this Act, no deduction shall be allowed to any undertaking or enterprise under this section, where the total period of deduction inclusive of the period of deduction under this section, or under the second proviso to sub-section *(4)* of section 80-IB or under section 10C, as the case may be, exceeds ten assessment years.

(7) The provisions contained in sub-section *(5)* and sub-sections *(7)* to *(12)* of section 80-IA shall, so far as may be, apply to the eligible undertaking or enterprise under this section.

(8) For the purposes of this section,—

(i) "Industrial Area" means such areas, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(ii) "Industrial Estate" means such estates, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(iii) "Industrial Growth Centre" means such centres, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(iv) "Industrial Park" means such parks, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(v) "initial assessment year" means the assessment year relevant to the previous year in which the undertaking or the enterprise begins to manufacture or produce articles or things, or commences operation or completes substantial expansion;

(vi) "Integrated Infrastructure Development Centre" means such centres, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(vii) "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura;

(viii) "Software Technology Park" means any park set up in accordance with the Software Technology Park scheme notified by the Government of India in the Ministry of Commerce and Industry;

(ix) "substantial expansion" means increase in the investment in the Plant and Machinery by at least fifty per cent. of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken;

(x) "Theme Park" means such parks, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government.'.

41. *Amendment of section 80L.*— In section 80L of the Income-tax Act, in sub-section *(1),*—

(a) clauses *(iv)*, *(v)* and *(va)* shall be omitted with effect from the 1st day of April, 2004;

(b) in clauses *(1)* and *(2),* for the words "nine thousand", the words "twelve thousand" shall be substituted.

42. *Insertion of new section 80LA.*— After section 80L of the Income-tax Act, the following section shall be

inserted with effect from the 1st day of April, 2004, namely:—

'80 LA. *Deduction in respect of certain incomes of Offshore Banking Units.— (1)* Where the gross total income of an assessee,—

(i) being a schedule bank (not being a bank incorporated by or under the laws of a country outside India);

(ii) owning an offshore banking unit in a special economic zone,

includes any income referred to in sub-section *(2)*, there shall be allowed, in accordance with and subject to the provisions of this section, a deduction from such income, of an amount equal to—

(a) one hundred per cent. of such income for three consecutive assessment years beginning with the assessment year relevant to the previous year in which the permission, under clause *(a)* of sub-section *(1)* of section 23 of the Banking Regulation Act, 1949, was obtained, and thereafter; 10 of 1949.

(b) fifty per cent. of such income for two consecutive assessment years.

(2) The income referred to in sub-section *(1)* shall be the income—

(a) from an offshore banking unit in a special economic zone;

(b) from the business, referred to in sub-section *(1)* of section 6 of the Banking Regulation Act, 1949, with an undertaking located in an special economic zone or any other undertaking which develops, develops and operates or operates and maintains a special economic zone; 10 of 1949.

(c) received in convertible foreign exchange, in accordance with the regulations made under the Foreign Exchange Management Act, 1999. 42 of 1999.

(3) No deduction under this section shall be allowed unless the assessee furnishes along with the return of income,—

(i) in the prescribed form, the report of an accountant as defined in the *Explanation* below sub-section *(2)* of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section, and

(ii) a copy of the permission obtained under clause *(a)* of sub-section *(1)* of section 23 of the Banking Regulation Act, 1949. 10 of 1949.

Explanation.— For the purposes of this section,—

(a) "convertible foreign exchange" shall have the same meaning assigned to it in clause *(a)* of the *Explanation* below sub-section *(4C)* of section 80HHC;

(b) "Offshore Banking Unit" means a branch of a bank in India located in the special economic zone and has obtained the permission under clause *(a)* of sub-section *(1)* of section 23 of the Banking Regulation Act, 1949; 10 of 1949.

(c) "scheduled bank" shall have the same meaning assigned to it in clause *(e)* of section 2 of the Reserve Bank of India Act, 1934; 2 of 1934.

(d) "special economic zone" shall have the same meaning assigned to it in clause *(viii)* of the *Explanation* 2 to section 10A.'.

43. *Ommission of section 80M.*— Section 80M of the Income-tax Act shall be omitted with effect from the 1st day of April, 2004.

44. *Insertion of new section 80QQB.*— After section 80QQA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

'80QQB. *Deduction in respect of royalty income, etc., of authors of certain books other than text books.— (1)* Where, in the case of an individual resident in India, being an author, the gross total income includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in sub-section *(2)*.

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section *(1),* or an amount of three lakh rupees, whichever is less:

Provided that where the income by way of such royalty or the copyright fee, is not a lump sum consideration in lieu of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such

income, as is in excess of fifteen per cent. of the value of such books sold during the previous year shall be ignored:

Provided further that in respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.

(3) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form and in the prescribed manner, duly verified by any person responsible for making such payment to the assessee as referred to in sub-section *(1)*, along with the return of income, setting forth such particulars as may be prescribed.

(4) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

(5) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any assessment year.

Explanation.— For the purposes of this section,—

(a) "author" includes a joint author;

(b) "books" shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text books for schools, tracts and other publications of similar nature, by whatever name called;

(c) "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange;

(d) "lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.'.

45. *Insertion of new section 80RRB.*— After section 80RRA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

'80RRB. *Deduction in respect of royalty on patents.— (1)* Where in the case of an assessee, being an individual, who is—

(a) resident in India;

(b) a patentee;

(c) in receipt of any income by way of royalty in respect of a patent registered on or after the 1st day of April, 2003 under the Patents Act, 1970, and 39 of 1970.

his gross total income of the previous year includes royalty, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, from such income, of an amount equal to the whole of such income or three lakh rupees, whichever is less:

Provided that where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty 39 of 1970. for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act:

Provided further that in respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority referred to in clause *(c)* of the *Explanation* to section 80QQB may allow in this behalf.

(2) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the prescribed authority, along with the return of income setting forth such particulars as may be prescribed.

(3) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form, from the authority or authorities, as may be prescribed, along with the return of income.

(4) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed, under any other provision of this Act in any assessment year.

Explanation.— For the purposes of this section,—

(a) "Controller" shall have the meaning assigned to it in clause *(b)* of sub-section *(1)* of section 2 of the Patents Act, 1970; 39 of 1970.

(b) "lump sum" includes an advance payment on acccount of such royalties which is not returnable;

(c) "patent" means a patent (including a patent of addition) granted under the Patents Act, 1970; 39 of 1970.

(d) "patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, 1970, and includes every such 39 of 1970. person, being the true and first inventor of the invention, where more than one person is registered as patented under that Act in respect of that patent;

(e) "patent of addition" shall have the meaning assigned to it in clause *(q)* of sub-section *(1)* of section 2 of the Patents Act, 1970; 39 of 1970.

(f) "patented article" and "patented process" shall have the meaning respectively assigned to them in clause *(o)* of sub-section *(1)* of section 2 of the Patents Act, 1970; 39 of 1970.

(g) "royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or of the patented article for commercial use) for—

(i) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(ii) the imparting of any information concerning the working of, or the use of, a patent; or

(iii) the use of any patent; or

(iv) the rendering of any services in connection with the activities referred to in sub-clauses *(i)* to *(iii);*

(h) "true and first inventor" shall have the meaning assigned to it in clause *(y)* of sub-section *(1)* of section 2 of the Patents Act, 1970;. 39 of 1970.

46. *Substitution of new section for section 80U.*— For section 80U of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

'80U. *Deduction in case of a person with disability.— (1)* In computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of fifty thousand rupees:

Provided that where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "fifty thousand rupees", the words "seventy-five thousand rupees" had been substituted.

(2) Every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed:

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income under section 139.

Explanation.— For the purposes of this section,—

(a) "disability" shall have the meaning assigned to it in clause *(i)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(b) "medical authority" means the medical authority as referred to in clause *(p)* of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(c) "person with disability" means a person referred to in clause *(t)* of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(d) "person with severe disability" means a person with eighty per cent or more of one or more disabilities, as referred to in sub-section *(4)* of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.'. 1 of 1996.

47. *Amendment of section 88.*— In section 88 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in sub-section *(2)*, —

(i) after clause *(xiva)* the following clause shall be inserted, namely:—

"*(xivb)* as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,—

(a) to any university, college, school or other educational institution situated within-India;

(b) for the purpose of full-time education of any of the person specified in sub-section *(4)*;";

(ii) in clause *(xvi),* for the *Explanation,* the following *Explanation* shall be substituted, namely:—

"Explanation.—For the purposes of this clause,—

(i) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section *(4)* of section 80-IA;

(ii) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956; 1 of 1956.

(iii) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956;'; 1 of 1956.

(b) after sub-section *(2)*, the following sub-section shall be inserted, namely:—

"*(2A)* The provisions of the sub-section *(2) s*hall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent. of the actual capital sum assured.

Explanation.— In calculating any such actual capital sum, no account shall be taken—

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be, or, may be, received under the policy by any person.";

(c) in sub-section *(4),* after clause *(c),* the following clause shall be inserted, namely:—

"*(d)* for the purpose of clause *(xivb)* of that sub-section, in the case of an individual, any two children of such individual.";

(d) in sub-section *(5),* after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that where the aggregate of any sum specified in clause *(xivb)* of sub-section *(2)* exceeds an amount of twelve thousand rupees in respect of a child, a deduction under sub-section *(1)* in respect of such sum shall be allowed with reference to so much of the aggregate as does not exceed an amount of twelve thousand rupees in respect of such child.".

48. *Amendment of section 88B.*— In section 88B of the Income-tax Act, for the words "fifteen thousand rupees", the words "twenty thousand rupees" shall be substituted with effect from the 1st day of April, 2004.

49. *Amendment of section 90.*— In section 90 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(i) in sub-section *(1),* for clause *(a),* the following clause shall be substituted, namely:—

"(a) for the granting of relief in respect of—

(i) income on which have been paid both income-tax under this Act and income-tax in that country; or

(ii) income-tax chargeable under this Act and under the corresponding law in force in that country to promote mutual economic relations, trade and investment, or";

(ii) after sub-section *(2)* and before the *Explanation,* the following sub-section shall be inserted, namely:—

"(3) Any term used but not defined in this Act or in the agreement referred to in sub-section *(1)*, shall unless the context otherwise required, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.".

50. *Amendment of section 115A.*— In section 115A of the Income-tax Act, in sub-section *(1),* with effect from the 1st day of April, 2004,—

(i) in clause *(a)*, for the word "dividends", at both the places where it occurs, the words, figures and letter "dividends other than dividends referred to in section 115-O" shall be substituted;

(ii) in clause *(b)*, in the opening portion, for the words "a foreign Company, includes any income by way of royalty or fees for technical services", the words, brackets, figures and letters" a non-resident (not being a company) or a foreign company, includes any income by way of royalty or fees for technical services other

than income referred to in sub-section *(1)* of section 44DA" shall be substituted.

51. *Amendment of section 115AC.*— In section 115AC of the Income-tax Act, for the word "dividends", wherever it occurs, the words, figures and letter "dividends, other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004.

52. *Amendment of section 115ACA.*— In section 115ACA of the Income-tax Act, for the words "income by way of dividends", wherever they occur, the words, figures, and letter "income by way of dividends, other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004.

53. *Amendment of section 115AD.*— In section 115AD of the Income-tax Act, in sub-section *(1)*, in clause *(a),* for the word "income", the words, figures and letter "income other than income by way of dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004.

54. *Amendment of section 115C.*— In section 115C of the Income-tax Act, in clause *(c)*, for the words "income derived", the words, figures and letter "income derived other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004.

55. *Amendment of section 115-O.*— In section 115-O of the Income-tax Act, for sub-section *(1),* the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in any other provisions of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2003, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of twelve and one-half per cent.".

56. *Amendment of section 115R.*— In section 115R of the Income-tax Act, for sub-section *(2)*, the following shall be substituted, namely:—

'(2) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income tax on such distributed income at the rate of twelve and one-half percent.:

Provided that nothing contained in this sub-section shall apply in respect of any income distributed,—

(a) by the Administrator of the specified undertaking, to the unit holders; or

(b) to a unit holders of open-ended equity oriented funds in respect of any distribution on made from such funds for a period of one year commencing from the 1st day of April, 2003.

Explanation.— For the purposes of this sub-section, "Administrator" and "specified company" shall have the meanings respectively assigned to them in the *Explanation* to clause *(35)* of section 10.'.

57. *Amendment of section 115-S.*— In section 115-S of the Income-tax Act, for the words "Unit Trust of India or a Mutual Fund and the Unit Trust of India", the words, brackets, letters and figures "specified company as referred to in clause *(h)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 or a Mutual Fund and the specified company" shall be substituted. 58 of 2002.

58. *Amendment of section 115T.* — In section 115T of the Income-tax Act, in the opening portion, for the words "Unit Trust of India or a Mutual Fund and the Unit Trust of India", the words, brackets, letter and figure "specified company as referred to in clause *(h)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 or a Mutual Fund and the specified Company" shall be substituted. 58 of 2002.

59. *Amendment of section 132.*— In section 132 of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1),*—

(i) after clause *(iii),* the following proviso shall be inserted, namely:—

"Provided that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;";

(ii) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that nothing contained in the second proviso shall apply in case of any valuable article or thing being stock-in-trade of the business.";

(b) in sub-section *(8),* for the words, brackets, letters and figures "under clause *(c)* of section 158 BC", the words, brackets, letters and figures "under section 153A or clause *(c)* of section 158BC " shall be substituted.

60. *Amendment of section 132B.*— In section 132B of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1),* in clause *(i)*,—

(*i)* for the words, figures and letter "under Chapter XIV-B for the block period", the words, figures and letter "under section 153A and the assessment of the year relevant to the previous year in which search is initiated or requisition is made , or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be" shall be substituted;

(ii) in the first proviso, for the words "Provided that where the nature and source of acquisition of any such asset is explained", the words "Provided that where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained" shall be substituted;

(b) in sub-section *(4)*, in clause *(b),* for the words, figures and letter "under Chapter XIV-B", the words, figures and letters "under section 153A or under Chapter XIV-B" shall be substituted.

61. *Amendment of section 133A.*— In section 133A of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(3),* in clause *(ia),* in the proviso, for clause *(b)*, the following clause shall be substituted, namely:—

"(b) retain in his custody any such books of account or other documents for a period exceeding ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be,";

(b) after sub-section *(6)* and before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided that no action under sub-section *(1)* shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.";

(c) In the *Explanation* below sub-section *(6)*, for clause *(a)* the following clause shall be substituted, namely:—

'*(a)* "income-tax authority" means a Commissioner, a Joint Commissioner, a Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer, and for the purposes of clause *(i)* of sub-section *(1)*, clause *(i)* of sub-section *(3)* and sub-section *(5)*, includes an Inspector of Income-tax;'.

62. *Amendment of section 139.*— In section 139 of the Income-tax Act, after sub-section *(1A)*, the following sub-section shall be inserted, namely:—

"(1B) Without prejudice to the provisions of sub--section *(1),*any person, being a company or being a person other than a company, required to furnish a return of income under sub-section *(1),* may, at his option, on or before the due date, furnish a return of his income for any previous year in accordance with such scheme as may be specified by the Board in this behalf by notification in the Official Gazette and subject to such conditions as may be specified therein, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner as may be specified in that scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section *(1),* and the provisions of this Act shall apply accordingly.".

63. *Amendment of section 140A.*— In section 140A of the Income-tax Act, with effect from the 1st day of June, 2003, —

(a) in sub-section *(1)*, for the words, figures and letters, " as the case may be, section 158BC", the words, figures and letters "section 153A or, as the case may be, section 158BC " shall be substituted;

(b) in sub-section *(2),* for the words, figures and letters "an assessment under section 158BC", the words, figures and letters "an assessment under section 153A or section 158BC" shall be substituted.

64. *Amendment of section 143.*— In section 143 of the Income-tax Act, in sub-section *(2),* with effect from the 1st day of June, 2003,—

(a) in clause *(i)*, the following proviso shall be inserted, namely:—

"Provided that no notice under this clause shall be served on the assessee on or after the 1st day of June, 2003;";

(b) in the proviso below clause *(ii),* for the words "no notice under this sub-section", the words, brackets and figures "no notice under clause *(ii)"* shall be substituted.

65. *Insertion of new sections 153A, 153B and 153C.*— After section 153 of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2003, namely:—

'153A. *Assessment in case of search or requisition.*— Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, then Assessing Officer shall—

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years referred to in clause *(b),* in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(b) assess or reassess the total income of six assessment years immediately preceding the assessment years relevant to the previous year in which such search is conducted or requisition is made:

Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years:

Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in this section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate.

Explanation. — For the removal of doubts, if is hereby declared that, —

(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;

(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

153B. *Time-limit for completion of assessment under section 153A.— (1)* Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,—

(a) in respect of each assessment year falling within six assessment years referred to in clause *(b)* of section 153A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 of for requisition under section 132A was executed;

(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed.

Explanation.— In computing the period of limitation for the purposes of this section,—

(i) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(ii) the period commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section *(2A)* of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section; or

(iii) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee of being re-heard under the proviso to section 129;E or

(iv) in a case where an application made before the Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order under sub-section *(1)* of section 245D is received by the Commissioner under sub-section *(2)* of that section,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in clause *(a)* or clause *(b)* of this section available to the Assessing Officer for making an order of assessment or reassessment as, the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(2) The authorisation referred to in clause *(a)* and clause *(b)* of sub-section *(1)* shall be deemed to have been executed,—

(a) in the case of search, on the conclusion of search as recovered in the last panchnama drawn in relation to

any person in whose case the warrant of authorisation has been issued;

(b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

153C. *Assessment of income of any other person.*— Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.'.

66. *Amendment of section 155.*— In section 155 of the Income-tax Act, after sub-section *(15)* and before the *Explanation,* the following sub-sections shall be inserted with effect from the 1st day of April, 2004, namely:—

"(16) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, is computed by taking the compensation or consideration as referred to in clause *(a)* or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to in clause *(b)* of sub-section *(5)* of section 45, to be the full value of consideration deemed to be received or accruing as a result of the transfer of the asset and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, the Assessing Officer shall amend the order of assessment so as to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which the order reducing the compensation was passed by the court, Tribunal or other authority.

(17) Where a deduction has been allowed to an assessee in any assessment year under section 80RRB in respect of any Patent, and Subsequently by an order of the Controller or the High Court under the Patents Act, 1970,— 39 of 1970.

(i) the patent was revoked, or

(ii) the name of the assessee was excluded from the patents register as patentee in respect of that patent,

the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which the assessee's name was excluded as patentee in respect of that patent, shall be demed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub- -section *(7)* of that section being reckoned from the end of the previous year in which such order of the Controller referred to in clause *(b)* of sub-section *(1),* or the High Court referred to in clause *(i)* of sub-section *(1)* of section 2, of the Patents Act, 1970, as the case may be, was 39 of 1970. passed.".

67. *Insertion of new section 158BI.*— After section 158BH of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2003, namely:—

"158BI. *Chapter not to apply after certain date*— The provisions of this Chapter shall not apply where a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003.".

68. *Amendment of section 163.*— In section 163 of the Income-tax Act, in sub-section *(1)*, after the proviso, the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely:—

'Explanation.— For the purposes of this sub-section, the expression "business connection" shall have the meaning assigned to it in *Explanation* 2 to clause *(i)* of sub-section *(1)* of section 9 of this Act.'.

69. *Amendment of section 184.*— In section 184 of the Income-tax Act, for the sub-section, *(5)*, the following sub-section shall be substituted with effect from the 1st day of April, 2004, namely:—

'(5) Notwithstanding anything contained in any other provision of this Act, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner

of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause *(v)* of section 28.'.

70. *Substitution of new section for section 185.*— For section 185 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

'185. *Assessment when section 184 not complied with.*— Notwithstanding anything contained in any other provisions of this Act, where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause *(v)* of section 28.'.

71. *Amendment of section 191.*— In section 191 of the Income-tax Act, the following *Explanation* shall be inserted with effect from the 1st day of June, 2003, namely:—

"*Explanation.*— For the removal of doubts, it is hereby declared that if any person referred to in section 200 and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax and such tax has not been paid by the assessee direct, then, such person, the principal officer and the company shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default as referred to in sub-section *(1)* of section 201 in respect of such tax.".

72. *Amendment of section 193.*— In section 193 of the Income-tax Act, in the opening portion, for the words " The person responsible for paying any income", the words "The person responsible for paying to a resident any income" shall be substituted with effect from the 1st day of June, 2003.

73. *Amendment of section 194.*— In section 194 of the Income-tax Act, —

(a) in the first proviso, in clause *(b),* for the words "one thousand rupees", the words "two thousand five hundred rupees" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of August, 2002;

(b) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that no such deduction shall be made in respect of any dividends referred to in section 115-O.".

74. *Amendment of section 194A.*— In section 194A of the Income-tax Act, in sub-section *(3),* after clause *(viii)* and before the *Explanation*, the following clause shall be inserted with effect from the 1st day of June, 2003, namely:—

"(ix) to such income credited or paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees.".

75. *Amendment of section 194C.*— In section 194C of the Income-tax Act, sub-sections *(4)* and *(5)* shall be ommitted with effect from the 1st day of June, 2003.

76. *Amendment of section 194G.*— In section 194G of the Income-tax Act, sub-sections *(2)* and *(3)* shall be omitted with effect from the 1st day of June, 2003.

77. *Amendment of section 194-I.*— In section 194-I of the Income-tax Act, in the opening portion, for the words "Any Person, not being an individual or a Hindu undivided family, who is responsible for paying to any person", the words "Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident" shall be substituted with effect from the 1st day of June, 2003.

78. *Amendment of section 194J.*— In section 194J of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1),* after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.";

(b) sub-sections *(2)* and *(3)* shall be omitted.

79. *Amendment of section 194K.*— In section 194K of the Income-tax Act,—

(a) in the first proviso, for the words "one thousand rupees", the words "two thousand five hundred rupees" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of August, 2002;

(b) after the second proviso, and before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided also that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003.".

80. *Amendment of section 195.*—In section 195 of the Income-tax Act,—

(a) in sub-section *(1),*—

(i) the brackets and words "(not being interest on securities)" shall be omitted with effect from the 1st day of June, 2003;

(ii) after the proviso and before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O.".

(b) in sub-section *(2),* for the brackets and words "(other than interest on securities and salary)", the brackets and words "(other than salary)" shall be substituted with effect from the 1st day of June, 2003.

81. *Amendment of section 196A.*— In section 196A of the Income-tax Act, in sub-section *(1)*, the following proviso shall be inserted, namely:—

"Provided that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003.".

82. *Amendment of section 196C.*— In section 196C of the Income-tax Act, the following proviso shall be inserted, namely:—

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.".

83. *Amendment of section 196D.*— In section 196D of the Income-tax Act, in sub-section *(1)*, the following proviso shall be inserted, namely:—

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.".

84. *Amendment of section 197.*— In section 197 of the Income-tax Act, in sub-section *(1)*, with effect from the 1st day of June, 2003,—

(a) for the words "any income of any person", the words "any income of any person or sum payable to any person" shall be substituted;

(b) for the figures and letters "194A, 194D, 194H, 194-I, 194K, 194L", figures and letters "194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K"shall be substituted.

85. *Amendment of section 197A.*— In section 197A of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) after sub-section *(1B),* the following sub-section shall be inserted, namely:—

"*(1C)* Notwithstanding anything contained in section 193 or section 194 or section 194A or section 194EE or section 194K or sub-section *(1B)* of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 193 or section 194 or section 194A or section 194EE or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.";

(b) in sub-section *(2),* after the words, brackets, figure and letter "or sub-section *(1A)"*, at both the places where they occur, the words, brackets, figure and letter "or sub-section *(1C)*" shall be inserted.

86. *Amendment of section 206.*— In section 206 of the Income-tax Act, for sub-sections *(2)* and *(3)*, the following sub-sections shall be substituted with effect from the 1st day of June, 2003, namely:—

"*(2)* Without prejudice to the provisions of sub-section *(1),* the person responsible for deducting tax under the foregoing provisions of this Chapter other than the principal officer the case of every company may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

Provided that the principal officer shall, in the case of every company responsible for deducting tax under the foregoing provisions of this Chapter, deliver or cause to be delivered within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

(3) Notwithstanding anything contained in any other law for the time being in force, a return field on computer media shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(4) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section *(2)* is defective, he may intimate the defect to the person responsible for deducting tax or the principal officer in the case of a company, as the case may be, and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.".

87. *Amendment of section 206C.*— In section 206C of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1),* for the table, the following Table shall be substituted, namely:—

" TABLE

Sl. No.	Nature of Goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption and tendu leaves	Ten per cent.
(ii)	Timber obtained under a forest lease	Fifteen per cent.
(iii)	Timber obtained by any mode other than under a forest leave	Five per cent.
(iv)	Any other forest produce not being timber or tendu leaves	Fifteen per cent.
(v)	Scrap	Ten per cent.:";

(b) in the *Explanation* below sub-section *(11),*—

(A) in clause *(a),* for sub-clauses *(i)* to *(iii),* the following sub-clauses shall be substituted, namely:—

"(i) a public sector company; or

(ii) a buyer in the retail sale of such goods obtained in pursuance of such sale;";

(B) for clauses *(b),* the following clauses shall be substituted, namely:—

'(b) "scrap" means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons;

(c) "seller" means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and also includes an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause *(a)* or clause *(b)* of section 44AB during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table in sub-section *(1)* are sold.'.

88. *Amendment of section 230.*— In section 230 of the Income-tax Act, for sub-section *(1),* the following sub-sections shall be substituted with effect from the 1st day of June, 2003, namely:—

"(1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person,—

(a) who is not domiciled in India;

(b) who has come to India in connection with business, profession or employment; and

(c) who has income derived from any source in India,

shall leave the territory of India by land, sea, or air unless he furnishes to such authority as may be prescribed—

(i) an undertaking in the prescribed form from his employer; or

(ii) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause *(i)* or the person referred to in clause *(ii),* and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India:

Provided that nothing contained in sub-section *(1)* shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(1A) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form to the income-tax authority or such other authority as may be prescribed—

(a) the permanent account number allotted to him under section 139A:

Provided that in case no such permanent account number has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under this Act, such person shall furnish a certificate in the prescribed form;

(b) the purpose of his visit outside India;

(c) the estimated period of his stay outside India:

Provided that no person—

(i) who is domiciled in India at the time of his departure; and

(ii) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtained a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income- -tax authority stating that he has no liabilities under this Act, or the Wealth-tax Act, 1957, or the Gift-tax Act, 1958, or the Expenditure-tax Act, 1987, or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person: 27 of 1957. 18 of 1958. 35 of 1987.

Provided that no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the Chief Commissioner of Income-tax.".

89. *Amendment of section 234A*— In section 234A of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1),* in *Explanation* 3, for the words and Figures "under section 147 ", the words, figures and letter "under section 147 or section 153A" shall be substituted;

(b) in sub-section *(3),*—

(i) in the opening portion, for the words and figures "by a notice under section 148," the words, figures and letter "by a notice under section 148 or section 153A" shall be substituted;

(ii) in clause *(b)*, after the words and figures "section 147 ", the words, figures and letter "or reassessment under section 153A" shall be inserted.

90. *Amendment of section 234B.*— In section 234B of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1)*, in *Explanation* 2, for the words and figures "under section 147 ", the words, figures and letter "under section 147 or section 153A" shall be substituted;

(b) in sub-section *(3)*, for the words and figures "under section 147" at both the places where they occur, the words, figures and letter "under section 147 or section 153A" shall be substituted.

91. *Insertion of new section 234D.*— After section 234C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2003, namely:—

"234D. *Interest on excess refund.— (1)* Subject to the other provisions of this Act, where any refund is granted to the assessee under sub-section *(1)* of section 143, and—

(a) no refund is due on regular assessment; or

(b) the amount refunded under sub-section *(1)* of section 143 exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of two-third per cent. on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

(2) Where, as a result of an order under section 154 or section 155, or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section *(4)* of section 245D, the amount of refund granted under sub-section *(1)* of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then, the interest chargeable, if any, under sub-section *(1)* shall be reduced accordingly.

Explanation.— Where, in relation to an assessment year, as assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.".

92. *Amendment of section 245N.*— In section 245N of the Income-tax Act, in clause *(a),*—

(a) in sub-clause *(ii),* with effect from the 1st day of June, 2000,—

(i) after the words "a determination by the Authority in relation to", the words "the tax liability of a non-resident arising out of " shall be inserted and shall be deemed to have been inserted;

(ii) for the words "a non-resident", the words "such non-resident" shall be substituted and shall be deemed to have been substituted;

(b) after sub-clause *(iii)*, the following proviso shall be inserted, namely:—

"Provided that where an advance ruling has been pronounced, before the date on which the Finance Bill, 2003 receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause *(ii)* of this clause as it stood immediately before such date, such ruling shall be binding on the persons specified in section 245-S;".

93. *Amendment of section 246A.* — In section 246A of the Income-tax Act, in sub-section *(1)*, after clause *(b)*, the following clause shall be inserted with effect from the 1st day of June, 2003, namely:—

"*(ba)* an order of assessment or reassessment under section 153A;".

94. *Amendment of section 269T.* — In section 269T of the Income-tax Act, after the proviso and before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2002, namely:—

"Provided further that nothing contained in this section shall apply to repayment of any loan or deposit taken or accepted from—

(i) Government;

(ii) any banking company, post office savings bank or Co-operative bank;

(iii) any corporation established by a Central, State or Provincial Act;

(iv) any Government company as defined in section 617 of the Companies Act, 1956; 1 of 1956.

(v) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.".

95. *Amendment of section 271E.*— In section 271E of the Income-tax Act, in sub-section *(1),* for the word "deposit" at both the places where it occurs, the words "loan or deposit" shall be substituted with effect from the 1st day of June, 2003.

96. *Amendment of section 275.*— In section 275 of the Income-tax Act, in sub-section *(1),* with effect from the 1st day of June, 2003,—

(a) after clause *(a),* the following proviso shall be inserted, namely:—

"Provided that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Commissioner, (Appeals) is received by the Chief Commissioner or Commissioner, whichever is later;";

(b) in clause *(b),* after the word and figures "section 263", the words and figures "or section 264" shall be inserted.

97. *Amendment of section 276CC.*— In section 276CC of the Income-tax Act, for the word and figures "section 148", the words, figures and letter "section 148 or section 153A" shall be substituted with effect from the 1st day of June 2003.

98. *Insertion of new section 285BA.*— After section 285B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

"285BA. *Annual information return.* — Any assessee, who enters into any financial transaction, as may be prescribed, with any other person, shall furnish, within the prescribed time, an annual information return in such form and manner, as may be prescribed, in respect of such financial transaction entered into by him during any previous year.".

99. *Insertion of Thirteenth and Fourteenth Schedules.*— In the Income-tax Act, after the Twelfth Schedule, the following Schedules shall be inserted with effect from the 1st day of April, 2004, namely:—

" THE THIRTEENTH SCHEDULE

[*See* section 80-IC (2)]

LIST OF ARTICLES OR THINGS

Part A

For the State of Sikkim

S. No.	Article or thing
1.	Tobacco and tobacco products (including cigarettes, cigars and gutka, etc.)
2.	Aerated branded beverages.
3.	Pollution - Causing paper and paper products.

Part B

For the State of Himachal Pradesh and the State of Uttaranchal

S. No.	Activity of article or thing	Excise classification	Sub-class under National industrial classification (NIC) 1998
1.	Tobacco and tobacco Products including cigarettes and pan masala	24.01 to 24.04 and 21.06	1600
2.	Thermal Power Plant (coal/oil based)		40102 or 40103
3.	Coal washerise/dry coal processing		
4.	Inorganic Chemicals excluding medicinal grade oxygen (2804.11), medi-cinal grade hydrogen peroxide (2847.11), compressed air (2851.30)	- Chapter 28	
5.	organic chemicals excluding Provitamins/vitamins, Hormones (29.36), Glycosides (29.39), sugars* (29.40)	- Chapter 29	24117
6.	Tanning and dyeing extracts, tannins and their derivatives, dyes, colours, paints and varnishes; putty, fillers and other mastics; inks	- Chapter 32	24113 or 24114
7.	Marble and mineral substances not classified elsewhere	-25.04 25.05	14106 or 14107
8.	Flour mills/rice mills	11.01	15311
9.	Foundries using coal		
10.	Minerals fuels, mineral oils and products of their distillation; bituminous substances : mineral waxes	- Chapter 27	
11.	Synthetic rubber products	40.02	24131
12.	Cement clinkers and asbestos, raw including fibre	2502.10 2503.00	
13.	Explosive (including industrial explosives, detonators and fuses, fireworks, matches, propellant powders, etc.)	36.01 to 36.06	24292
14.	Mineral or chemical fertilizers	31.02 to 31.05	24112
15.	Insecticidse, fungicides, herbicides and pesticides (basic manufacture and formulation)	3808.10	24211 or 24219
16.	Fibre glass and articles thereof	70.14	26102
17.	Manufacture of pulp-wod pulp, mechanical or chemical (including dissolving pulp)	47.01	21011
18.	Branded aerated water/soft drinks (non-fruit based)	2201.20 2202.20	15541 or 15542
19.	Paper	4801	21011 to 21019
	Writing or printing paper, etc.	4802.10	
	Paper or paperboard, etc.	4802.20	
	Maplitho paper, etc.	4802.30	
	Newsprint, in rolls or sheets	4801.00	
	Craft paper, etc.	4804.10	
	Sanitary towels, etc.	4818.10	
	Cigaratte paper	48.13	
	Grease-proof paper	4806.10	
	Toilet or facial tissue, etc.	4803	
	Paper and paperboard, laminated internally with bitumen, tar or asphalt	4807.10	
	Carbon or similar copying paper	4809.10	
	Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics, etc.	4811.20	
	Paper and paperboard, coated, impregnated or covered with wax, etc.	4811.40	
20.	Plastics and articles thereof	39.09 to 39.15	

* Serial No. 5 Reproduction by synthesis not allowed as also downstream industries for sugar.

THE FOURTEENTH SCHEDULE

[*See* section 80-IC (2)]

LIST OF ARTICLES OR THINGS OR OPERATIONS

PART A

For the North-Eastern States

1. Fruit and Vegetable Processing industries manufacturing or producing—
   (i) Canned or bottled products;
   (ii) Aseptic packaged products;
   (iii) Frozen products;
   (iv) dehydrated products;
   (v) Oleoresins.

2. Meat and Poultry Product industries manufacturing or producing—
   (i) Meat Products (buffalo, sheep, goat and pork);
   (ii) Poultry production;
   (iii) Egg Powder Plant.

3. Cereal Based Product industries manufacturing or producing—
   (i) Maize Milling including starch and its derivatives;
   (ii) Bread, Biscuits, Breakfast Cereal.

4. Food and Beverage industries manufacturing or producing—
   (i) Snacks;
   (ii) Non-alcoholic beverages;
   (iii) Confectionery including chocolate;
   (iv) Pasta Products;
   (v) Processed spices, etc.;
   (vi) Processed pulses;
   (vii) Tapioca products.

5. Milk and milk based product industries manufacturing or producing—
   (i) Milk powder;
   (ii) Cheese;
   (iii) Butter/ghee;
   (iv) Infant food;
   (v) Weaning food;
   (vi) Matted milk food;

S. No.	Activity or article or thing or operation
6.	Food packing industry.
7.	Paper products industry.
8.	Jute and mesta products industry.
9.	Cattle or poultry or fishery feed products industry.
10.	Edible Oil processing or vanaspati industry.
11.	Processing of essential oils and fragrances industry.
12.	Processing and raising of plantation crops, tea, rubber, coffee, coconuts, etc.
13.	Gas based Intermediate Products Industry manufacturing or producing —
	(i) Gas exploration and production;
	(ii) Gas distribution and bottling;
	(iii) Power generation;
	(iv) Plastics;
	(v) Yarn raw materials;
	(vi) Fertilizers;
	(vii) Methanol;
	(viii) Formaldehyde and FR resin melamine and MF resin;
	(ix) Methylamine, Hexamethylene tetramine, Ammonium bi-carbonate;
	(x) Nitric Acid and Ammonium Nitrate;
	(xi) Carbon black;
	(xii) Polymer chips.
14.	Agro forestry based industry.
15.	Horticulture industry.
16.	Mineral based industry.
17.	Floriculture industry.
18.	Agro based industry.

PART B

(For the State of Sikkim)

S. No.	Activity or article or thing or operation
1.	Eco-Tourism including Hotels, Resorts, Spa, Amusement Parks and Ropeways.
2.	Handicrafts and handlooms.
3.	Wool and silks reeling, weaving and processing, printing, etc.
4.	Floriculture.
5.	Precision Engineering including watch making.
6.	Electronics including computronics hardware and software and Information Technology (IT) related industries .
7.	Food processing including Agro-based industries, Processing, preservation and packaging of fruits and vegetables (excluding conventional grinding/extraction units).
8.	Medicinal and aromatic Herbs-Plantation and Processing.
9.	Raising and processing of plantation crops i. e., tea, oranges and cardamom.
10.	Mineral based industry.
11.	Pharma products.
12.	Honey.
13.	Biotechnology.

PART C

(For the State of Himachal Pradesh and the State of Uttaranchal)

Sl. No.	Activity or article or thing or operation	4/6 digit excise classification	Sub-class under NIC classification on 1998	ITC (HS) classification 4/6 digit
1	2	3	4	5
1.	Floriculture	-	-	0603 or 060120 or 06029020 or 06024000
2.	Medicinal herbs and aromatic herbs, etc., processing	-	-	
3.	Honey	-	-	040900
4.	Horticulture and agro based industries such as			
	(a) Sauces, ketchup, etc.	21.03	15135 to 15137 and 15139	
	(b) Fruit juices and fruit pulp	2202.40		
	(c) Jams, jellies, vegetable juices, puree, pickles, etc.	20.01		
	(d) Preserved fruits and vegetables			
	(e) Processing of fresh fruits and vegetables including packaging			
	(f) Processing, preservation, packaging of mushrooms			
5.	Food Processing Industry excluding those included in the Thirteenth Schedule		19.01 to 19.04	
6.	Sugar and its by-products		-	- 17019100
7.	Silk and silk products		50.04 50.05	17116
8.	Wool and wool products		51.01 to 51.12	17117
9.	Woven fabrics (Excisable garments)		-	- 6101 to 6117
10.	Sports goods and articles and equipment for general physical exercise and equipment for adventure sports/activities, tourism (to be specified, by notification, by the Central Government)		9506.00	
11.	Paper and paper products excluding those in the Thirteenth Schedule (as per excise classification)			
12.	Pharma products		30.03 to 30.05	
13.	Information and Communication Technology Industry, Computer Hardware, call centre		84.71	30006/7

1	2	3	4	5
14.	Bottling of mineral water		2201	
15.	Eco-tourism including hotels, resorts, spa, entertainment/amusement parks and ropeways		-	55101
16.	Industrial gases (based on atmospheric fraction)			
17.	Handicrafts			
18.	Non-timber forest product based industries".			

Wealth-tax

100. *Amendment of section 17 of Act 27 of 1957.*— In section 17 of the Wealth tax Act, 1957, in sub-section *(1),* the words " not being less than thirty days," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

Gift-tax

101. *Amendment of section 16 of Act 18 of 1958.*— In section 16 of the Gift-tax Act, 1958, in sub-section *(1)*, the words "not being less than thirty days," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

Expenditure-tax

102. *Amendment of section 3.* — In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act), in section 3, in clause *(1)*, for the words "incurred in a hotel", the words, figures and letters "incurred before the 1st day of June, 2003 in a hotel" shall be substituted with effect from the 1st day of June, 2003. 35 of 1987.

103. *Amendment of section 4.*— In the Expenditure-tax Act, in section 4 , in clause *(a)*, after the words "the commencement of this Act", the words, figures and letters "but not after the 31st day of May, 2003" shall be inserted with effect from the 1st day of June, 2003.

CHAPTER IV

(Indirect Taxes)

Customs

104. *Amendment of section 2.* — In section 2 of the Customs Act, 1962 (hereinafter referred to as the Customs Act), in clause *(1B)*, for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted. 52 of 1962.

105. *Amendment of section 7.*— Section 7 of the Customes Act shall be numbered as sub-section *(1)* thereof,—

(a) in sub-section *(1)* as so numbered, for the words "Central Government", the word "Board" shall be substituted ;

(b) after sub-section *(1)* as so numbered, the following sub-section shall be inserted, namely:—

"(2) Every notification issued under this section and in force immediately before the commencement of the Finance Act, 2003 shall, on such commencement, be deemed to have been issued under the provisions of this section as amended by section 105 of the Finance Act, 2003 and shall continue to have the same force and effect after such commencement until it is amended, rescinded or superseded under the provisions of this section.".

106. *Amendment of section 15.*— In section 15 of the Customs Act, in sub-section *(1)*, in clause *(b),* for the words " the goods are actually removed from the warehouse", the words "a bill of entry for home consumption in respect of such goods is presented under that section" shall be substituted.

107. *Amendment of section 25.*— In section 25 of the Customs Act,—

(a) for sub-section *(2),* the following sub-section shall be substituted, namely:—

"(2) If the Central Government is satisfied that it, is necessary in the public interest so to do, it may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.";

(b) after sub-section *(5),* the following sub-section shall be inserted, namely:—

"*(6)* Notwithstanding anything contained in this Act, no duty shall be collected if the amount of duty leviable is equal to, or less than, one hundred rupees.".

108. *Amendment of section 27.*— In section 27 of the Customs Act, in sub-section *(2)*, in the first proviso, in clause *(a),* after the word "importer", the word "or the exporter, as the case may be" shall be inserted.

109. *Amendment of section 28.*— In section 28 of the Customs Act, in sub-section *(1)*, the second and third proviso shall be omitted.

110. *Amendment of section 28E.*— In section 28E of the Customs Act,—

(a) for clause *(c),* the following clause shall be substituted, namely:—

'(c) "applicant" means—

(i) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(ii) a resident setting up a joint venture in India in collaboration with a non-resident; or

(iii) a wholly owned subsidiary India company, of which the holding company is a foreign company,

who proposes to undertake any business activity in India and makes application for advance rulling under sub-section *(1)* of section 28H;';

(b) for clause *(h),* the following clause shall be substituted, namely:—

'(h) "non-resident","Indian company" and "foreign company" have the meanings respectively assigned to them in clauses *(30), (26)* and *(23A)* of section 2 of the Income-tax Act, 1961.'. 43 of 1961.

111. *Amendment of section 28H.*— In section 28H of the Customs Act, in sub-section *(2)*, after clause *(c),* the following clause shall be inserted, namely:—

"(d) applicability of notifications issued in respect of duties under this Act, the Customs Tariff Act, 1975 and any duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act.". 51of 1975.

112. *Amendment of section 30.*— In section 30 of the Customs Act, for sub-section *(1)*, the following sub-section shall be substituted, namely:—

"(1) The person-in-charge of—

(i) a vessel; or
(ii) an aircraft; or
(iii) a vehicle,

carrying imported goods or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessels or an aircraft, deliver to the proper officer an import manifest prior to the arrival of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in the prescribed form and if the import manifest or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees.".

113. *Amendment of section 61.*— In section 61 of the Customs Act,—

(a) in sub-section *(1),*—

(i) in clause *(a),* the word "and" shall be omitted;

(ii) after clause *(a),* the following clause shall be inserted, namely:—

"(aa) in the case of goods other than capital Goods intended for use in any hundred per cent. export-oriented undertaking, till the expiry of three years; and ";

(iii) in the proviso, in clause *(i)*, for the words, brackets, and letters "clause *(a)* or clause *(b)*", the words, brackets and letters "clause *(a)* or clause *(aa)* or clause *(b)*" shall be substituted;

(b) in sub-section *(2),*—

(i) in clause *(i),* for the word, brackets and letter "sub-clause *(a)*", the words, brackets and letters "sub-clause *(a)* or sub-clause *(aa)*" shall be substituted;

(ii) in clause *(ii)*, for the words "thirty days", wherever they occur, the words "ninety days" shall be substituted.

114. *Amendment of section 68.*— In section 68 of the Customs Act, after clause *(c),* the following proviso shall be inserted, namely:—

"Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of rent, interest, other charges and penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.".

115. *Amendment of section 75A.*— In section 75A of the Customs Act, in sub-section *(1),*—

(a) for the words "two months", wherever they occur, the words "one month" shall be substituted;

(b) the proviso shall be omitted.

116. *Amendment of section 113.*— In section 113 of the Customs Act,—

(a) in clauses *(c), (e), (f), (g)* and *(h),* the words "dutiable or prohibited", wherever they occur, shall be omitted;

(b) for clause *(i),* the following clause shall be substituted, namely:—

"(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;";

(c) in clause *(k),* the words "under a claim for drawback" shall be omitted.

117. *Amendment of section 114.* — In section 114 of the Customs Act,—

(a) in clause *(i),* for the words "not exceeding the value of the goods or five thousand rupees", the words "not exceeding three times the value of the goods as declared by the exporter or the value as determined under this act" shall be substituted;

(b) for clause *(iii),* the following clause shall be substituted, namely:—

"(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater."

118. *Amendment of section 122.*— In section 122 of the Customs Act,—

(a) in clause (*b)*, for the words "fifty thousand", the words "two lakh" shall be substituted;

(b) in clause *(c),* for the words "two thousand five hundred", the words "ten thousand" shall be substituted.

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119. *Amendment of section 129.*— In section 129 of the Customs Act,—

(a) in sub-section *(1),* for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted;

(b) in sub-section *(2)*, for the words "Central Legal Service", the words "Indian Legal Service" shall be substituted;

(c) sub-section *(4A)* shall be omitted;

(d) in sub-section *(5)*, for the words "The Senior Vice-President or a Vice-President", the words "A Vice-President" shall be substituted.

120. *Substitution of new section for section 130.*— For section 130 of the Customs Act, the following section shall be substituted, namely:—

"130. *Appeal to High Court.— (1)* An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for the purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.

(2) The Commissioner of Customs or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of Customs or the other party;

(b) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgement thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section *(1).*

(7) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(8) Where there is no such majorty, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.". 5 of 1908.

121. *Amendment of section 130A.*— In section 130A of the Customs Act, in sub-section *(1)*, for the words, figures and letters "on or after the 1st day of July, 1999", the words, figures and letters "before the 1st day of July, 2003" shall be substituted.

122. *Amendment of section 130D.*— In section 130D of the Customs Act,—

(a) after sub-section *(1)*, the following sub-section shall be inserted with effect from the 1st day of July, 2003, namely:—

"*(A)* where the High Court delivers a Judgement in an appeal filed before it under section 130, effect shall be given to the order passed on the appeal by the proper officer on the basis of a certified copy of the judgement.";

(b) in sub-section *(2),* for the words "reference to the High Court or the Supreme Court", the words "reference to the High Court or an appeal to the High Court or the Supreme Court as the case may be," shall be substituted .

123. *Amendment of section 130E.* — In section 130E of the Customs Act, for clause *(a)*, the following clause shall be substituted, namely:—

"(a) any judgement of the High Court delivered—

(i) in an appeal made under section 130; or

(ii) on a reference made under section 130; by the Appellate Tribunal before the 1st day of July, 2003;

(iii) on a reference made under section 130A,

in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgement, the High Court certifies to be a fit one for appeal to the Supreme Court; or",

124. *Amendment of section 135.*— In section 135 of the Customs Act, in sub-section *(1),*—

(a) in clause *(a),* after the words ",knowingly concerned", the words "in misdeclaration of value or" shall be inserted ;

(b) in clause *(b),* for the word and figures "section 111,", the words and figures "section 111 or section 113, as the case may be, or" shall be substituted;

(c) after clause *(b)*, the following clause shall be inserted, namely:—

"*(c)* attempts to export any goods which he know or has reason to believe are liable to confiscation under section 113,".

125. *Amendment of section 136.*— In section 136 of the Customs Act, in sub-section *(1)*, for the words "connives at any act or thing, whereby", the words "connives at any act or thing, whereby any fraudulent export is effected or" shall be substituted.

126. *Amendment of notifications issued under section 25 of the Customs Act.*— (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) Nos. G.S.R.465 (E), dated the 3rd May, 1990 and G.S.R. 423 (E), dated the 20th April, 1992, issued under sub-section *(1)* of section 25 of the Customs Act by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column *(3)* of the Second Schedule, on and form the coresponding date mentioned in column *(4)* of that Schedule retrospectively and, accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be, and always to have been, for all purposes, as validity and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of section 25 of the Customs Act, retrospectively at all material times.

127. *Amendment of notifications, relating to export promotion scheme, issued under section 25 of the Customs Act.*— (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) Nos. G.S.R. 308 (E), dated the 31st March, 1995, G.S.R. 309 (E), dated the 31st March, 1995, G.S.R. 480 (E), dated the 5th June, 1995, G. S.R. 657 (E), dated the 19th September , 1995, G. S. R. 658 (E), dated the 19th September, 1995, G.S.R. 184 (E), dated the 1st April, 1997, G.S.R.186 (E), dated the 1st April 1997, G.S.R. 187 (E), dated the 1st April, 1997, G.S.R. 197 (E), dated the 7th April, 1997, G.S.R.216 (E), dated the 11th April, 1997, G.S.R. 623 (E), dated the 16th October, 1998, G.S.R. 299 (E), dated the 29th April 1999, G.S.R. 366 (E), dated the 27th April, 2000 and G.S.R.367 (E), dated the 27th April, 2000, issued under sub-section *(1)* of section 25 of the Customs Act by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column (3) of the Third Schedule, on and from the corresponding date mentioned in column (4) of that Schedule retrospectively and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other

authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be and always to have been, for all purposes, as validly and effectively, taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of section 25 of the Customs Act, restrospectively, at all material times.

(3) Refund shall be made of all amounts of interest which have been paid or, as the case may be, which have not been refunded but which would not have been paid or, as the case may be, which would have been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 received the assent of the President and subject to the provisions of this sub-section, the provisions of section 27 of the Customs Act shall be applicable for such refund.

128. *Additional duty of Customs (tea and tea waste).* — (1) In the case of goods specified in the Fourth Schedule, being goods imported into India, there shall be levied and collected for the purposes of the Union, by surcharge, an additional duty of customs, if the rate specified in the said Schedule.

(2) The additional duty of customs referred to in sub-section (1) shall be in addition to any other duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.

(3) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and impositions of penalty, shall, as far as may be, apply in relation to the levy and collection of the additional duty of customs leviable under this section in respect of the goods specified in the Fourth Schedule as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Customs tariff

129. *Amendment of section 3.*— In section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in sub-section *(2)*, in clause *(ii),* for the words, brackets and figure "but not including the duty referred to in sub-section *(1)*", the following shall be substituted and shall be deemed to have been substituted retrospectively on and from the 1st day of March, 2002, namely:— 51 of 1975.

"but does not include—

(a) the special additional duty referred to in section 3A;

(b) the safeguard duty referred to in sections 8B and 8C;

(c) the countervailing duty referred to in section 9;

(d) the anti-dumping duty referred to in section 9A; and

(e) duty referred to in sub-section *(1)"*.

130. *Amendment of section 3A.*— In section 3A of the Customs Tarrif Act, in sub-section *(2)*, in clause *(ii),* for the words, brackets and figure "but not including the special additional duty referred to in sub-section *(1);* and", the following shall be substituted and shall be deemed to have been substituted retrospectively on and from the 1st day of March, 2002, namely:—

"but does not include —

(a) the safeguard duty referred to in sections 8B and 8C;

(b) the countervailing duty referred to in section 9;

(c) the anti-dumping duty referred to in section 9A;

(d) the special additional duty referred to in sub-section *(1)* ; and ".

131. *Amendment of section 9A* — In section 9A of the Customs Tarrif Act, in sub-section *(1)*, in the *Explanation,* in clause *(c),* in sub-clause *(ii),* in item *(a),* for the words, "territory or", the words "territory to" shall be substituted.

132. *Amendment of section 9C.*— In section 9C of the Customs Tariff Act in sub-section *(1),* for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted .

133. *Amendment of First Schedule.*— In the First Schedule to the Tariff Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, in Chapter 15,—

(i) in tariff item 1516 10 00, for the entry in column *(4)*, the entry "100%" shall be substituted;

(ii) in tariff item 1516 20 11, for the entry in column *(4)*, the entry "100%" shall be substituted;

(iii) in tariff item 1516 20 19, for the entry in column *(4)*, the entry "100%" shall be substituted;

(iv) in tariff item 1516 20 21, for the entry in column *(4)*, the entry "100%" shall be substituted;

(v) in tariff item 1516 20 29, for the entry in column *(4)*, the entry "100%" shall be substituted;

(vi) in tariff item 1516 20 31, for the entry in column *(4)*, the entry "100%" shall be substituted;

(vii) in tariff item 1516 20 39, for the entry in column *(4)*, the entry "100%" shall be substituted;

(viii) in tariff item 1516 20 91, for the entry in column *(4),* the entry "100%" shall be substituted;

(ix) in tariff item 1516 20 99, for the entry in column *(4)*, the entry "100%" shall be substituted;

(x) in tariff item 1517 10 10, for the entry in column *(4),* the entry "100%" shall be substituted;

(xi) in tariff item 1517 10 21, for the entry in column *(4),* the entry "100%" shall be substituted;

(xii) in tariff item 1517 10 22, for the entry in column *(4),* the entry "100%"shall be substituted;

(xiii) in tariff item 1517 10 29, for the entry in column *(4)*, the entry "100%" shall be substituted ;

(xiv) in tariff item 1517 90 10, for the entry in column *(4),* the entry "100%" shall be substituted;

(xv) in tariff item 1517 90 20, for the entry in column *(4),* the entry "100%" shall be substituted;

(xvi) in tariff item 1517 90 30, for the entry in column *(4)*, the entry "100%" shall be substituted;

(xvii) in tariff item 1517 90 40, for the entry in column *(4)*, the entry "100%" shall be substituted;

(xviii) in tariff item1517 90 90, for the entry in column *(4)*, the entry "100%" shall be substituted;

(xix) in tariff item 1518 00 11, for the entry in column *(4)*, the entry "100%" shall be substituted;

(xx) in tariff item 1518 00 19, for the entry in column *(4),* the entry "100%" shall be substituted;

(xxi) in tariff item 1518 00 21, for the entry in column *(4)*, the entry "100%" shall be substituted;

(xxii) in tariff item 1518 00 29, for the entry in column *(4)*, the entry "100%" shall be substituted;

(xxiii) in tariff item 1518 00 31,for the entry in column *(4)*, the entry "100%" shall be substituted ;

(xxiv) in tariff item 1518 00 39, for the entry in column *(4)*, the entry "100%" shall be substituted;

(xxv) in tariff item 1518 00 40, for the entry in column *(4),* the entry "100%" shall be substituted;

134. *National Calamity Contingent Duty of Customs.— (1)* In the case of goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule, being goods imported into India, there shall be levied and collected for the purposes of the Union, by surcharge, a duty of customs, to be called the National Calamity Contingent Duty of Customs (hereinafter referred to as the National Calamity Duty of Customs), at the rates specified in the said Seventh Schedule, as amended by the Thirteenth Schedule. 14 of 2001.

(2) The National Calamity Duty of Customs chargeable on the goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule shall be in addition to any other duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force. 14 of 2001.

(3) For the purposes of calculating the National Calamity Duty of Customs under this section on any goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule, where such duty is leviable at any percentage of its value, the value of such goods shall be calculated in the same manner as the value of article for the purposes of additional duty is calculated under the provisions of sub-section *(2)* of section 3 of the Customs Tariff Act. 14 of 2001.

(4) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the National Calamity Duty of Customs leviable under this section in respect of the goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule, as they apply in relation to the levy and collection of the duties of customs on such goods under that Act, or those rules and regulations, as the case may be. 14 of 2001.

Explanation.— For the removal of doubts, it is hereby declared that for the purposes of this section, on the expiry of the period of operation of the amendments made in the Seventh Sched-

ule to the Finance Act, 2001 in terms of section 169, the said Seventh Schedule but for such amendment shall continue to operate as if the said amendment had not taken place. 14 of 2001.

Excise

135. *Amendment of section 2.*— In section 2 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act),— 1 of 1944.

(a) in clause *(aa)*, for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted;

(b) in clause *(f),* for sub-clause *(iii),* the following sub-clause shall be substituted, namely:—

"(iii) which, in relation to the goods specified in the Third Schedule, envolves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product markable to the consumer,".

136. *Amendment of section 4.* — In section 4 of the Central Excise Act,—

(a) in sub-section *(1),* the following *Explanation* shall be inserted at the end, namely:—

"Explanation.— For the removal of doubts, it is hereby declared that the price-cum-duty of the excisable goods sold by the assessee shall be the price actually paid to him for the goods sold and the money value of the additional consideration, if any, flowing directly or indirectly from the buyer to the assessee in connection with the sale of such goods, and such price-cum-duty, excluding sales tax and other taxes, if any, actually paid, shall be deemed to include the duty payable on such goods.";

(b) in sub-section *(3),*—

(i) in clause *(c)*,—

(A) in sub-clause *(ii),* for the words "payment of duty,", the words "payment of duty;" shall be substituted ;

(B) after sub-clause *(ii),* the following sub-clause shall be inserted, namely:—

"(iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory,";

(ii) after clause *(c)*, the following clause shall be inserted, namely:—

'(cc) "time of removal", in respect of the exercisable goods removed from the place of removal referred to in sub-clause *(iii)* of clause *(c),* shall be deemed to be the time at which such goods are cleared from the factory;'

137. *Amendment of section 4A.*— In section 4A of the Central Excise Act, for sub-section *(4),* the following shall be substituted, namely:—

'(4) Where any goods specified under sub-section *(1)* are excisable goods and the manufacturer—

(a) removes such goods from the place of manufacture, without declaring the retail sale price of such goods on the packages or declares a retail sale price which is not the retail sale price as required to be declared under the provisions of the Act, rules or other law as referred to in sub-section *(1)*; or

(b) tampers with, obliterates or alters the retail sale price declared on the package of such goods after their removal from the place of manufacture, then, such goods shall be liable to confiscation and the retail sale price of such goods shall be ascertained in the prescribed manner and such price shall be deemed to be the retail sale price for the purposes of this section.

Explanation 1.— For the purposes of this section, "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for such sale:

Provided that in case the provisions of the Act, rules or other law as referred to in sub-section *(1)* require to declare on the package, the retail sale price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly.

Explanation 2.— For the purposes of this section,—

(a) where on the package of any excisable goods more than one retail sale price is declared, the maximum of such retail sale prices shall be deemed to be the retail sale price;

(b) where the retail sale price, declared on the package of any excisable goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price;

(c) where different retail sale prices are declared on different packages for the sale of any excisable goods in packaged form in different areas, each such retail sale price shall be the retail sale price for the purposes of valuation of the excisable goods intended to be sold in the area to which the retail sale price relates.'.

138. *Amendment of section 5A*. — In section 5A of the Central Excise Act, for sub-section *(2)*, the following sub-section shall be substituted, namely:—

"(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty of excise, under circumstances of an exceptional nature to be stated in such order, any excisable goods on which duty of excise is leviable.".

139. *Amendment of section 11A.*— In section 11A of the Central Excise Act,—

(a) in sub-section *(1),* the second and third proviso shall be omitted;

(b) in sub-section *(2B)*, after the words "pay the amount of duty", the words "on the basis of his own ascertainment of such duty or on the basis of duty ascertained by a Central Excise Officer" shall be inserted.

140. *Insertion of new section 11DD*. — After section 11D of the Central Excise Act, the following section shall be inserted, namely:—

"11DD. *Interest on the amounts collected in excess of the duty.— (1)* Where an amount has been collected in excess of the duty assessed or determined and paid on any excisable goods under this Act or the rules made thereunder from the buyer of such goods, the person who is liable to pay such amount as determined under sub-section *(3)* of section 11D, shall, in addition to the amount, be liable to pay interest at such rate not below ten percent., and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the amount ought to have been paid under this Act, but for the provisions contained in sub-section *(3)* of section 11D, till the date of payment of such amount:

Provided that in such cases where the amount becomes payable consequent to issue of an order, instruction or direction by the Board under section 37B, and such amount payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of each order, instruction or direction, as the case may be, no interest shall be payable and in other cases the interest shall be payable on the whole amount, including the amount already paid.

(2) The provisions of sub-section *(1)* shall not apply to cases where the amount had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the President.

Explanation 1. — Where the amount determined under sub-section *(3)* of section 11D is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section *(1)* shall be on such reduced amount.

Explanation 2.— Where the amount determined under sub-section *(3)* of section 11D is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section *(1)* shall be on such increased amount.".

141. *Substitution of new section for section 13.*— For section 13 of the Central Excise Act, the following section shall be substituted, namely:—

"13. *Power to arrest.*— Any Central Excise Officer not below the rank of Inspector of Central Excise may, with the prior approval of the Commissioner of Central Excise, arrest any person whom he has reason to believe to be liable to punishment under this Act or the rules made thereunder.".

142. *Amendment of section 23A.* — In section 23A of the Central Excise Act,—

(a) for clause *(c)*, the following clause shall be substituted, namely:—

'(c) "applicant" means—

(i) a resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(ii) a resident setting up a joint venture in India in collaboration with a non-resident; or

(iii) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who proposes to undertake any business activity in India makes application for advance ruling;';

(b) for clause *(f)*, the following clause shall be substituted, namely:—

'(f) "non-resident","Indian company" and "foreign company"shall have the meanings respectively assigned to them in clauses *(30), (26)* and *(23A)* of section 2 of the income-tax Act, 1961.'. 43 of 1961.

143. *Amendment of section 23C.*— In section 23C of the Central Excise Act, in sub-section *(2),* after clause *(c),* the following clauses shall be inserted, namely:—

"*(d)* notifications issued, in respect of duties of excise under this Act, the Central Excise Tariff Act, 1985 and any duty chargeable 5 of 1986. under any other law for the time being in force in the same manner as duty of excise leviable under this Act;

(e) admissibility of credit of excise duty paid or deemed to have been paid on the goods used in or in relation to the manufacture of the excisable goods.".

144. *Substitution of new section for section 35G.*— For section 35G of the Central Excise Act, the following section shall be substituted, namely:—

"35G. *Appeal to High Court. — (1)* An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for the purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.

(2) The Commissioner of Central Excise or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be —

(a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of Central Excise or the other party;

(b) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be alllowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section *(1).*

(7) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(8) When there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the Majority of the judges who have heard the case including those who first heard it.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, 5 of 1908.. relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.".

145. *Amendment of section 35H.*— In section 35H of the Central Excise Act, in sub-section *(1),* for the words, figures and letters "on or after the 1st day of July, 1999", the words, figures and letters "before the 1st day of July, 2003" shall be substituted.

146. *Amendment of section 35K.*— In section 35K of the Central Excise Act,—

(a) after sub-section *(1)*, the following sub-section shall be inserted with effect from the 1st day of July, 2003, namely:—

"(1A) Where the High Court delivers a judgement in an appeal filed before it under section 35G, effect shall be given to the order passed on the appeal by the concerned Central Excise Officer on the basis of a certified copy of the judgement.";

(b) in sub-section *(2),* for the words "reference to the High Court or the Supreme Court", the words "reference to the High Court or an appeal to the High Court or the Supreme Court, as the case may be" shall be substituted.

147. *Amendment of section 35L.*— In section 35L of the Central Excise Act, for clause *(a),* the following clause shall be substituted, namely:—

"*(a)* any judgement of the High Court Delivered—

(i) in an appeal made under section 35G; or

(ii) on a reference made under section 35G by the Appellate Tribunal before the 1st day of July, 2003;

(iii) on a reference made under section 35H, in any case which, on its own motion or on an oral

application made by or on behalf of the party aggrieved, immediately after passing of the judgement, the High Court certifies to be a fit one for appeal to the Supreme Court; or".

148. *Insertion of new Schedule in the Central Excise Act.*— After the Second Schedule to the Central Excise Act, the Schedule specified in the Fifth Schedule shall be inserted.

149. *Amendment of rule 57R of the Central Excise Rules, 1944.— (1)* In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, in rule 57R,—

(a) sub-rule *(5)* as substituted by the Central Excise (Third Amendment) Rules, 1996, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 324 (E), dated the 23rd July, 1996; and

(b) sub-rule *(8)* as inserted by the Central Excise (Amendment) Rules, 1997, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 122 (E), dated the 1st March, 1997,

shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column *(3)* of the Sixth Schedule on and from the corresponding date specified in column *(4)* of that Schedule against each of said sub-rules specified in column *(2)* of that Schedule till the date on which those sub-rules were superseded and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said sub--rules as so amended, shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the said sub-rules, as amended by this sub-section, had been in force at all material times.

(2) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section *(1)*, for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

(3) Credit shall be allowed of all such specified duly, which have been disallowed but which would not have been disallowed if the amendment made by sub-section *(1)* had been in force at all material times.

(4) Refund shall be made of all such credit of specified duty, which have been collected but which would have not been collected if the amendment made by sub-section *(1)* had been in force at all material times.

(5) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of the credit of the specified duty paid on capital goods under sub-section *(3)* shall be made within six months from the day on which the Finance Bill, 2003 receives the assent of the President.

Explanation.— For the purposes of this section, the expression "specified duty" has the meaning asigned to it in rule 57Q of the Central Excise Rules, 1944 referred to in sub-section *(1).*

150. *Amendment of rules 57F and 57AB of the Central Excise Rules, 1944.— (1)* In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, —

(a) in rule 57F, sub-rule *(12)*, as substituted by clause *(a)* of rule 8 of the Central Excise (Amendment) Rules, 1997, published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 122 (E), dated the 1st March, 1997; and

(b) in rule 57 AB, in sub-rule *(1),* clause *(b)*, as substituted by rule 5 of the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 203 (E), dated the 1st March, 2000,

shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column *(3)* of the Sixth Schedule, on and from the corresponding date specified in column *(4)* of that Schedule against each of the said sub-rules specified in column *(2)* of that Schedule till the date on which those sub-rules, were superseded.

(2) Any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 8th day of July,1999 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the credit of specified duty or the CENVAT credit, as the case may be, to be taken or utilised which would have been allowed to be taken or utilised but for the amendments made by sub-section *(1),* shall be deemed to be, and to always have been, for all purposes, as validly and effectively

taken or done as if the amendments made by sub-section *(1)* had been in force at all material times, and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the credit of specified duty or the CENVAT credit, as the case may be, and no enforcement shall be made by any court of any decree or order allowing the credit of specified duty or the CNEVAT credit, as the case may be, not allowed to be taken or utilised as if the amendments made by sub--section *(1)* had been in force at all material times;

(b) recovery shall be made of all the credit of specified duty or the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendments made by sub-section *(1)* had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such credit of duties within this period, in addition to the amount of credit of such duties recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section *(1),* for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make the rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.— For the removal of doubts, it is hereby declared that no act or ommission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.— For the purposes of this section, the expressions "specified duty" and "CENVAT credit " have the meanings respectively assigned to them in rules 57A and 57AB of the Central Excise Rules, 1944 referred to in sub-section *(1).*

151. *Amendment of rule 3 of the CENVAT Credit Rules, 2001.— (1)* In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, sub-rule *(3)* of the 3 thereof as published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 445 (E), dated the 21st June, 2001 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column *(2)* of the Seventh Schedule, on and from the corresponding date specified in column *(3)* of that Schedule till the date on which the said CENVAT Credit Rules were superseded.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of July, 2001 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the CENVAT credit to be taken or utilised which would have been allowed to be taken or utilised, but for the amendment made by sub--section *(1)* shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section *(1)* had been in force at all material times, and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the CENVAT credit and no enforcement shall be made by any court of any decree or order allowing the CENVAT credit not allowed to be taken or utilised if the amendment made by sub-section *(1)* had been in force at all material times;

(b) recovery shall be made of all the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendment made by sub-section *(1)* had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such CENVAT credit within this period, in addition to the amount of such CENVAT credit recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) Notwithstanding the supersession of the CENVAT Credit Rules, 2001 referred to in sub-section *(1)*, for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make the rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.— For the removal of doubts, if is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.— For the purposes of this section, the expression "CENVAT credit" has the meaning assigned to

it in the CENVAT Credit Rules, 2001 referred to in sub-section *(1)*.

152. *Amendment of rule 3 of the CENVAT Credit Rules, 2002.— (1)* In the CENVAT Credit Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, in rules 3, in sub-rule *(3)*, the second proviso, as inserted by the CENVAT Credit (Amendment) Rules, 2002, published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 835 (E), dated the 23rd December, 2002 shall be deemed to have and to have always had effect on and from the 1st day of March, 2002.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of March, 2002 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the CENVAT credit to be taken or utilised which would have been allowed to be taken or utilised but for the amendment made by sub-section *(1)*, shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section *(1)*, had been in force at all material times, and acccordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the CENVAT credit and no enforcement shall be made by any court of any decree or order allowing the CENVAT credit not allowed to be taken or utilised if the amendment made by sub-section *(1)* had been in force at all material times;

(b) recovery shall be made of all the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendment made by sub-section *(1)* had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such CENVAT credit within this period, in addition to the amount of such CENVAT credit recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2. — For the purposes of this section, the expression "CENVAT credit" has the meaning assigned to it in the CENVAT Credit Rules, 2002 referred to in sub-section *(1)*.

153. *Amendment of notifications issued under section 5A of the Central Excise Act for certain period (1)*. The notifications of the Government of India in the Ministry of Finance (Department of Revenue) Nos. G.S.R. 508 (E), dated the 8th July, 1999 and G.S.R.509 (E), dated the 8th July, 1999, issued under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section *(3)* of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section *(3)* of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified in the Eighth Schedule, on and from the 8th day of July, 1999 to the 22nd day of December, 2002 (both days inclusive) retrospectively, and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times. 58 of 1957. 40 of 1978.

(2) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section *(3)* of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section *(3)* of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 retrospectively at all material times. 58 of 1957. 40 of 1978.

(3) Notwithstanding the cessation of the amendment under sub-section *(1)* on the 22nd day of December, 2002, no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken

or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, tribunal or other authority of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by sub-section *(1)* had been in force at all material times.

(4) Notwithstanding the cessation of the amendment under sub-section *(1)* on the 22nd day of December, 2002, recovery shall be made of all amounts of duty or interest or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would not have been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 received the assent of the President, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days, till the date of payment.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in sub-section *(1)* had not been amended retrospectively by that sub-section.

154. *Amendment of notifications issued under section 5A of the Central Excise Act.*— *(1)* The notifications of the Government of India in the Ministry of Finance (Department of Revenue) Nos. G.S.R. 508 (E), dated the 8th July,1999 and G.S.R. 509 (E), dated the 8th July, 1999, issued under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section *(3)* of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section *(3)* of at section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column *(3)* of the Ninth Schedule, on and from the corresponding date specified in column *(4)* of that Schedule retrospectively, and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times. 58 of 1957. 40 of 1978.

(2) For the purposes of sub-section *(1),* the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section *(3)* of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section *(3)* of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 retrospectively at all material times. 58 of 1957. 40 of 1978.

(3) No suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, tribunal or other authority of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made by sub-section *(1)* had been in force at all material times.

(4) Recovery shall be made of all amounts of duty or interest or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would have not been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable from the date immediately after the expiry of the said period of thirty days till the date of payment.

Explanation.— For the removal of doubts, it is hereby declared that no act or ommission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in sub-section *(1)* had not been amended retrospectively by that sub-section.

Central Excise Tariff

155. *Amendment of First and Second Schedules to Act 5 of 1986.*— In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(a) the First Schedule shall be amended in the manner as specified in the Tenth Schedule;

(b) the Second Schedule shall be amended in the manner as specified in the Eleventh Schedule.

156. *Amendment of Second Schedule to Act 58 of 1957.*— In the Additional Duties of Excise (Goods of Special Importance) Act, 1957, in the Second Schedule, in paragraph 4, in sub-paragraph *(i),* for the proviso, the following proviso shall be substituted, with effect from such date as may be notified by the Central Government in the Official Gazette for this purpose, namely:—

"Provided that, if during each of the Financial year commencing on and after the 1st day of April, 2003, there is levied and collected in any State a tax on the sale or purchase of the goods described in the column *(3)* of the First Schedule at a rate exceeding four per cent., of the value of such goods determined in accordance with section 4 of the Central Excise Act, 1944, no sums shall be payable to that 1 of 1944. State, under this paragraph in respect of that financial year, unless the Central Government, by special order, otherwise directs.".

157. *Additional duty of excise (tea and tea waste).* — *(1)* In the case of goods specified in the Fourth Schedule, being goods manufactured in India, there shall be levied collected for the purposes of the Union, by surcharge, an additional duty of excise, at the rate specified in the said Schedule.

(2) The Additional duty of excise referred to in sub-section *(1)*, shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of the goods specified in the Fourth Schedule as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

CHAPTER V
Service Tax

158. *Modification of Act 32 of 1994.*— During the period commencing on and from the 16th Day of Jusly, 1997 and ending with the 16th day of October, 1998, the provisions of Chapter V of the Finance Act, 1994, as modified by section 116 of the Finance Act, 2000 shall have 10 of 2000. effect and be deemed always to have had effect subject to the following further modifications, namely:—

(a) in section 68, in sub-section *(1)*, the following proviso shall be inserted at the end and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely:—

"Provided that—

(i) in relation to services provided by a clearing and forwarding agent, every person who engages a clearing and forwarding agent and by whom remuneration or commission (by whatever name called) is paid for such services to the said agent for the period commencing on and from the 16th day of July, 1997 and ending with the 16th day of October, 1998; or

(ii) in relation to services provided by goods transport operator, every person who pays or is liable to pay the freight either himself or through his agent from the transportation of goods by road in a goods carriage for the period commencing on and from the 16th day of November, 1997 and ending with the 2nd day of June, 1998.

shall be deemed always to have been a person liable to pay service tax, for such services provided to him, to the credit of the Central Government.";

(b) after section 71, the following section shall be inserted and shall be deemed to have been inserted on and from the 16th day of July, 1997 namely:—

"71A. *Filing of return by certain customers.*— Notwithstanding anything contained in the provisions of sections 69 and 70, the provisions thereof shall not apply to a person referred to in the proviso to sub-section *(1)* of section 68 for the filing of return in respect of service tax for the respective period and service specified therein and such person shall furnish return of the Central Excise Officer within six months from the day on which the Finance Bill, 2003 receives the assent of the President in the prescribed manner on the basis of the self assessment of the service tax and the provisions of section 71 shall apply accordingly.";

(c) in section 94 in sub-section *(2)*, after clause *(c),* the following clause shall be inserted and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely:—

"(cc) the manner of furnishing return under section 71A; ".

159. *Amendment of Act 32 of 1994.— In the Finance Act, 1994,—*

(a) for section 65, the following sections shall be substituted, namely:—

'65. *Definitions.*— In this Chapter, unless the context otherwise requires,—

(1) "actuary" has the meaning assigned to it in

clause *(1)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(2) "advertisement" includes any notice, circular, lable, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(3) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

(4) "air travel agent" means any persons engaged in providing any service connected with the booking of passage for travel by air;

(5) "Appellate Tribunal" means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962; 52 of 1962.

(6) "architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 and also 20 of 1972. includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

(7) "assessee" means a person liable to pay the Service Tax and includes his agent;

(8) "authorised dealer of foreign exchange" has the meaning assigned to "authorised person" in clause *(c)* of section 2 of the Foreign Exchange Management Act, 1999; 42 of 1999.

(9) "authorised service station" means any service station, or centre, authorised by any motor vehicle manufacturer, to carry out any service or repair of any motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer;

(10) "banking" has the meaning assigned to it in clause *(b)* of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(11) "banking company" has the meaning assigned to it in clause *(a)* of section 45A of the Reserve Bank of India Act, 1934; 2 of 1934.

(12) "banking and other financial service" means—

(a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate, namely:—

(i) financial leasing services including equipment leasing and hire-purchase by a body corporate;

(ii) credit card services;

(iii) merchant banking services;

(iv) securities and foreign exchange (forex) broking;

(v) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services, but does not include cash management;

(vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy; and

(vii) provision and transfer of Information and data processing;

(b) foreign exchange broking provided by a foreign exchange broker other than those covered under sub-clause *(a);*

(13) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963; 54 of 1963.

(14) "body corporate" has the meaning assigned to it in clause *(7)* of section 2 of the Companies Act, 1956; 1 of 1956.

(15) "broadcasting" has the meaning assigned to it in clause *(c)* of section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 and also include programme selection, 26 of 1990. scheduling or presentation of sound or visual matter on a radio or a television channel that is intended for public listening or viewing, as the case may be; and in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes the activity of selling of time slots or obtaining sponsorships for broadcasting of any programme or collecting the broadcasting charges on behalf of the said agency or organisation, by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner;

(16) "broadcasting agency or organisation" means any agency or organisation engaged in providing service in relation to broadcasting in any manner, and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes its branch office or subsidiary or representative in India or any agent appointed in India or any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsor-

ships for programme or collecting the broadcasting charges on behalf of the said agency or organisation;

(17) "beauty treatment" means face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up;

(18) "beauty parlour" means any establishment providing beauty treatment services;

(19) "business auxiliary service" means any service in relation to,—

(i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or

(ii) promotion or, marketing of service provided by the client; or

(iii) any customer care service provided on behalf of the client; or

(iv) any incidental or auxiliary support service such as billing, collection or recovery of cheques, accounts and remittance, evaluation of prospective customer and public relation services,

and includes services as a commission agent, but does not include any information technology service.

Explanation. — For the removal of doubts, it is hereby declared that for the purposes of ths clause "information technology service" means any service in relation to designing developing or maintaining of computer software, or computerized data processing or system networking, or any other service primarily in relation to operation of computer systems;

(20) "cab" means a motorcab or maxicab;

(21) "cable operator" has the meaning assigned to it in clause *(aa)* of section 2 of the Cable Television Networks (Regulation) Act, 1995; 7 of 1995.

(22) "cable service" has the meaning assigned to it in clause *(b)* of section 2 of the Cable Television Networks (Regulation) Act, 1995; 7 of 1995.

(23) "cargo handling service" means loading, unloading, packing or unpacking of cargo and includes cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport and cargo handling service incidental to freight, but does not include handling of export cargo on passenger baggage or mere transportation of goods;

(24) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;

(25) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent;

(26) "commercial training or coaching" means any training or coaching provided by a commercial training or coaching centre;

(27) "commercial training or coaching centre" means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include preschool coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force;

(28) "commissioning or installation" means any service provided by a commissioning and installation agency in relation to commissioning or installation of plant, machinery or equipment;

(29) "commissioning and installation agency" means any agency providing service in relation to commissioning or installation;

(30) "computer network" has the meaning assigned to it in clause *(j)* of sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(31) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering ;

(32) "convention" means a formal meeting or assembly which is not open to the general public, but does not include a meeting or assembly, the principal purpose of which is to provide any type of amusement, entertainment or recreation;

(33) "courier agency" means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(34) "credit rating agency" means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;

(35) "custom house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section *(2)* of section 146 of the Customs Act, 1962; 52 of 1962.

(36) "data" has the meaning assigned to it in clause *(o)* of sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(37) "dry cleaning" includes dry cleaning of apparels, garments or other textile, fur or leather articles;

(38) "dry cleaner" means any commercial concern providing service in relation to dry cleaner;

(39) "electronic form" has the meaning assigned to it in clause *(r)* of sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(40) "event management" means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, sports or any other event and includes any consultation provided in this regard;

(41) "event manager" means any person who is engaged in providing any service in relation to event management in any manner;

(42) "facsimile *(FAX)"* means a form of telecommunication by which fixed graphic images, such as printed texts and pictures are scanned and the information converted into electrical signals for transmission over the telecommunication system;

(43) "fashion designing" includes any activity relating to conceptualising, outlining , creating the designs and preparing patterns for costumes, apparels, garments, clothing accessories, jewellery or any other articles intended to be worn by human beings and any other service incidental thereto;

(44) "fashion designer" means any person engaged in providing service in relation to fashion designing;

(45) "financial institution" has the meaning assigned to it in clause *(c)* of section 45-I of the Reserve Bank of India Act, 1934; 2 of 1934.

(46) "foreign exchange broker" includes any authorised dealer of foreign exchange;

(47) "franchise" means an agreement by which—

(i) franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchiser, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved;

(ii) the franchiser provides concepts of business operation to franchisee, including know how, method of operation, managerial expertise, marketing technique or training and standards of quality control except passing on the ownership of all know how to franchisee;

(iii) the franchisee is required to pay to the franchiser, directly or indirectly, a fee; and

(iv) the franchisee is under an obligation not to engaged in selling or providing similar goods or services or process, identified with any other person;

(48) "franchiser" means any person who enters into franchise with a franchisee and includes any associate of franchiser or a person designated by franchisor to enter into franchise on his behalf and the term "franchisee" shall be construed accordingly;

(49) "general insurance business" has the meaning assigned to it in clause *(g)* of section 3 of the General Insurance Business (Nationalisation) Act, 1972 ; 57 of 1972.

(50) "goods" has the meaning assigned to it in clause *(7)* of section 2 of the Sale of Goods Act, 1930; 3 of 1930.

(51) "health and fitness service" means service for physical well being such as, sauna and steam bath, turkish bath, solarium, spas, reducing or slimming salons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service;

(52) "health club and fitness centre" means any establishment, including a hotel or a resort, providing health and fitness service;

(53) "information" has the meaning assigned to it in clause *(v)* of sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(54) "insurance agent" has the meaning assigned to it in clause *(10)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(55) "insurance auxiliary service" means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment;

(56) " intermediary or insurance intermediary" has the meaning assigned to it in clause *(f)* of sub-section *(1)* of section 2 of the Insurance Regulatory and Development Authority Act, 1999; 41 of 1999.

(57) "internet cafe" means a commercial establishment porviding facility for accessing internet;

(58) "insurer" means any person carrying on the general insurance business or life insurance business in India;

(59) "interior decorator" means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer;

(60) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the subscriber and includes a speech circuit, a data circuit or a telegraph circuit;

(61) " life insurance business" has the meaning assigned to it in clause *(11)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(62) "light motor vehicle" means any motor vehicle constructed or adopted to cary more than six passengers, but not more than twelve passengers, excluding the driver;

(63) "magnetic storage device" includes wax blanks, discs or blanks, strips or flims for the purpose of original sound recording;

(64) "maintenance or repair" means any service provided by—

(i) any person under a maintenance contract or agreement; or

(ii) a manufacturer or any person authorised by him, in relation to maintenance or repair or servicing of any goods or equipment, excluding motor vehicle;

(65) "management consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualising devising, development, modification, rectification or upgradation of any working system of any organisation;

(66) "mandap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fittings and floor coverings therein let out for a consideration for organising any official, social or business function; 4 of 1882.

(67) "mandap keepar" means a person who allows temporary occupation of a mandap for a consideration for organising any official, social or business function;

(68) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;

(69) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;

(70) "maxicab" has the meaning assigned to it in clause *(22)* of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(71) "motorcap" has the meaning assigned to it in clause *(25)* of section 2 of the Motor Vehicle Act, 1988; 59 of 1988.

(72) "motor car" has the meaning assigned to it in clause *(26)* of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(73) "motor vehicle" has the meaning assigned to it in clause *(28)* of section 2 of the Motor Vehicle Act, 1988; 59 of 1988.

(74) "non-banking financial company" has the meaning assigned to it in clause *(f)* of section 45-I of the Reserve Bank of India Act, 1934; 2 of 1934.

(75) "on-line information and database access or retrieval" means providing data or information, retrievable or otherwise, to a customer, in electronic form through a computer network;

(76) "other port" has the meaning assigned to "port" in clause *(4)* of section 3 of the Indian Ports Act, 1908, but does not include the port defined in clause *(81);* 15 of 1908.

(77) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;

(78) "photography" includes still photography, motion picture photography, laser photography, aerial photography or flourescent photography;

(79) "photography studio or agency" means any professional photographer or a commercial concern engaged in the business of rendering service relating to photography;

(80) "policyholder" has the meaning assigned to it in clause *(2)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(81) "port" has the meaning assigned to it in clause *(q)* of section 2 of the Major Port Trusts Act, 1963; 38 of 1963.

(82) "port service" means any service rendered by a port or other port or any person authorised by such port or other port, in any manner, in relation to a vessel or goods;

(83) "practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 and includes any concern engaged in 38 of 1949. rendering services in the field of chartered accountancy;

(84) "practising cost accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 and includes any concern engaged in 23 of 1959. rendering services in the field of cost accountancy;

(85) "practising company secretary" means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 and 56 of 1980. includes any concern engaged in rendering services in the field of company secretaryship;

(86) "prescribed" means prescribed by rules made under this Chapter;

(87) "rail travel agent" means any person engaged in providing any service connected with booking of passage for travel by rail;

(88) "real estate agent" means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;

(89) "real estate consultant" means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(90) "recognised stock exchange" has the meaning assigned to it in clause *(f)* of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(91) "rent-a-cab scheme operator" means any person engaged in the business of renting of cabs;

(92) "scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology;

(93) "securities" has the meaning assigned to it in clause *(h)* of section 2 of the Securities Contracts (regulation) Act, 1956; 42 of 1956.

(94) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;

(95) "service tax" means tax leviable under the provisions of this Chapter;

(96) "ship" means a sea-going vessel and includes a sailing vessel;

(97) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(98) "sound recording" means recording of sound on a magnetic storage device and includes editing thereof, in any manner;

(99) "sound recording studio or agency" means any commercial concern engaged in the business of rendering any service relating to sound recording;

(100) "steamer agent" means any person who undertakes, either directly or indirectly,—

(i) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(ii) to book, advertise or canvass for cargo for or on behalf of a shipping line; or

(iii) to provide container feeder services for or on behalf of a shipping line;

(101) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(102) "storage and warehousing" includes storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or any service provided by a cold storage;

(103) "sub-broker" means a sub-broker who has either made an applications for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(104) "subscriber" means a person to whom any service of a telephone connection or a facsimile (FAX) or a leased circuit or a pager or a telegraph or a telex has been provided by the telegraph authority;

(105) "taxable service" means any service provided,—

(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(b) to a subscriber, by the telegraph authority in relation to a telephone connection;

(c) to a subscriber, by the telegraph authority in relation to a pager;

(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(e) to a client, by an advertising agency in relation to advertisement, in any manner;

(f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;

(g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(h) to a client, by a custom house agent in relation to the entry or departure of conveyance or the import or the export of goods;

(i) to a shipping line, by a steamer agent in relation to a ship's husbandary or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;

(j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;

(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner;

(l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;

(m) to a client, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;

(n) to any person, by a tour operator in relation to a tour;

(o) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;

(p) to a client, by an architect in his professional capacity, in any manner;

(q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;

(r) to a client, by a management consultant in connection with the management of any organisation, in any manner;

(s) to a client, by a practising chartered accountant in his professional capacity, in any manner;

(t) to a client, by a practising cost accountant in his professional capacity, in any manner;

(u) to a client, by a practising company secretary in his professional capacity, in any manner;

(v) to a client, by a real estate agent in relation to real estate;

(w) to a client, by a security agency in relation to the security of any property or person, by providing

security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;

(x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;

(z) to a client, by an underwriter in relation to underwriting, in any manner;

(za) to a client, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;

(zb) to a customer, by a photography studio or agency in relation to photography, in any manner;

(zc) to a client, by any commercial concern in relation to holding of a convention, in any manner;

(zd) to a subscriber, by the telegraph authority in relation to a leased circuit;

(ze) to a subscriber, by the telegraph authority in relation to a communication through telegraph;

(zf) to a subscriber, by the telegraph authority in relation to a communication through telex;

(zg) to a subscriber, by the telegraph authority in relation to a facsimile (FAX) communication;

(zh) to a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;

(zi) to a client, by a video production agency in relation to video-tape production, in any manner;

(zj) to a client, by a sound recording studio or agency in relation to any kind of sound recording;

(zk) to a client, by a broadcasting agency or organisation in relation to broadcasting any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges on behalf of the said agency or organisation .

Explanation.— For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service shall be a taxable service in relation to broadcasting, even if the encryption of signals or beaming thereof through the satellite might have taken place outside India;

(zl) to a policy holder or insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business;

(zm) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;

(zn) to any person, by a port or any person authorised by the port, in relation to port services, in any manner;

(zo) to a customer, by an authorised service station, in relation to any service or repair of motor cars or two wheeled motor vehicles, in any manner;

(zp) to a customer, by a body corporate other than the body corporate referred to in sub-clause (zm), in relation to banking and other financial services;

(zq) to a customer, by a beauty parlour in relation to beauty treatment;

(zr) to any person, by a cargo handling agency in relation to cargo handling services;

(zs) to a customer, by a cable operator in relation to cable services;

(zt) to a customer, by a dry cleaner in relation to dry cleaning;

(zu) to a client, by an event manager in relation to event management;

(zv) to any person, by a fashion designer in relation to fashion designing;

(zw) to any person, by a health club and fitness centre in relation to health and fitness services;

(zx) to a policyholder, by an insurer carrying on life insurance business in relation to life insurance business;

(zy) to a policy holder or insurer by an actuary, or, intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business;

(zz) to a customer, by a rail travel agent in relation to booking of passage for travel by rail;

(zza) to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods;

(zzb) to a client, by a commercial concern in relation to business auxiliary service;

(zzc) to any person, by a commercial training or coaching center in relation to commercial training or coaching;

(zzd) to a customer, by a commissioning and installation agency in relation to commissioning or installation;

(zze) to a franchisee, by the franchisor in relation to franchise;

(*zzf)* to any person, by an internet cafe in relation to access of internet;

(zzg) to a customer, by any person in relation to maintenance or repair;

(zzh) to any person, by a technical testing and analysis agency, in relation to technical testing and analysis;

(zzi) to any person, by a technical inspection and certification agency, in relation to technical inspection and certification;

(zzj) to a customer, by an authorised service station, in relation to any service or repair of any light motor vehicle;

(zzk) to a customer, by a foreign exchange broker other than those brokers in relation to banking and other financial services referred to in sub-clauses *(zm)* and *(zp)* ;

(zzl) to any person, by other port or any person authorised by that port in relation to port services, in any manner;

and the term "service provider" shall be construed accordingly;

(106) "technical testing and analysis" means any service in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals;

(107) "technical testing and analysis agency" means any agency or person engaged in providing service in relation to technical testing and analysis;

(108) "technical inspection and certification" means inspection and examination of goods or process or materials or any immovable property to certify that such goods or process or materials or immovable property qualifies or maintains the specified standards, including functionality or utility or quality or safety or any other characteristic or parameters, but does not includes any service in relation to inspection and certification of pollution levels;

(109) "technical inspection and certification agency" means any agency or person engagaed in providing service in relation to technical inspection and certification;

(110) "telegraph" has the meaning assigned to it in clause *(1)* of section 3 of the Indian Telegraph Act, 1885; 13 of 1885.

(111) "telegraph authority" has the meaning assigned to it in clause *(6)* of section 3 of the Indian Telegraph Act, 1885 and includes a person 13 of 1885. who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(112) "telex" means a typed communication by using teleprinters through telex exchanges;

(113) "tour" means a journey from one place to another irrespective of the distance between such places;

(114) "tourist vehicle" has the meaning assigned to it in clause *(43)* of section 2 of the Motor Vehicle Act, 1988; 59 of 1888.

(115) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 or the rules made 59 of 1988. thereunder;

(116) "underwriter" has the meaning assigned to it in clause *(f)* of rules 2 of the Securities and Exchange Board of Indian (Underwriters) Rules, 1993;

(117) "underwriting" has the meaning assigned to it in clause *(g)* of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(118) "vessel" has the meaning assigned to it in clause *(z)* of section 2 for the Major Port Trusts Act, 1963; 38 of 1963.

(119) "video production agency" means any professional videographer or any commercial concern engaged in

the business of rendering services relating to video-tape production;

(120) "video-tape production" means the process of any recording of any programme, event or function or a magnetic tape and includes editing thereof, in any manner;

(121) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, 1 of 1944. shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.

65A. *Classification of taxable services.— (1)* For the purposes of this Chapter, classification of taxable services shall be determined according to the terms of the sub-clauses of clause *(105)* of section 65;

(2) When for any reason, a taxable service is, *prima facie,* classifiable under two or more sub-clauses of clause *(105)* of section 65, classification shall be effected as follows:—

(a) the sub-clause which provides the most specific description shall be preferred to sub-clauses providing a more general description;

(b) composite services consisting of a combination of different services which cannot be classified in the manner specified in clause *(a),* shall be classified as if they consisted of a service which gives them their essential character, in so far as this criterion is applicable;

(c) when a service cannot be classified in the manner specified in clause *(a)* or clause *(b),* it shall be classified under the sub-clause which occurs first among the sub--clauses which equally merit consideration.';

(b) for section 66, the following section shall be substituted, namely:—

"66. *Charge of service tax.— (1)* There shall be levied a tax (hereinafter referred to as the service tax) at the rate of eight per cent. of the value of the taxable services referred to in sub-clauses *(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x),(y), (z), (za), (zb), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zp), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz)* and *(zza)* of clause *(105)* of section 65 and collected in such manner as may be prescribed.

(2) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied a service tax at the rate of eight per cent. of the value of the taxable services referred to in sub-clauses *(zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzj), (zzk)*, and *(zzl)* of clause *(105)* of section 65 and collected in such manner as may be prescribed.";

(c) in section 67, in the *Explanation,—*

(i) in clause *(f)* for the words "motor car", the words "motor car light motor vehicle" shall be substituted;

(ii) for the portion beginning with the words "but does not include" and ending with the words "rail travel agent in respect of service provided by him", the following shall be substituted, namely:—

"but does not include—

(i) initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile (FAX) or telegraph or telex or for leased circuit;

(ii) the cost of unexposed photography film, unrecorded, magnetic taps or such other storage devices, if any, sold to the client during the course of providing the service;

(iii) the cost of parts or accessoires, or consumables such as lubricants and coolants, if any, sold to the customer during the course of service or repair of motor cars, light motor vehicle or two wheeled motor vehicles;

(iv) then airfare collected by air travel agent in respect of service provided by him;

(v) the rail fare collected by rail travel agent in respect of service provided by him;

(vi) the cost of parts or other material, if any, sold to the customer during the course of providing maintenance or repair service; and

(vii) the cost of parts or other materials, if any, sold to the customer during the course of providing commissioning or installation service.";

(d) in section 73,—

(i) in sub-section *(1)*, in the *Explanation,* for the words "six months", the words "one year" shall be substituted;

(ii) after sub-section *(2)*, the following sub-section shall be inserted, namely:—

'(2A) Where any service tax has escaped assessment or has been under-assessed or service tax has not been paid or has been short paid or erroneously or refunded, the person chargeable with the service tax, may pay the amount of tax on the basis of his own ascertainment of such tax or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section *(1)* in respect

of service tax, and inform the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section *(1)* in respect of service tax so paid:

Provided that the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise may determine the amount of short payment of service tax, if any, which in his opinion has not been paid by such person and, then, the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise shall proceed to recover such amount in the manner specified in this section, and the period of "one year" referred to in sub-section *(1)* shall be counted from the date of receipt of such information of payment.

Explanation 1.— Nothing contained in this sub-section shall apply to cases falling under clause *(a)* of sub-section *(1)*.

Explanation 2. — For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax, if any, as may be determined by the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise, but for this sub-section.

(2B) The provisions of sub-section *(2A)* shall not apply to any case where the service tax had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the President";

(e) in section 78, for the proviso, the following shall be substituted, namely:—

"Provided that where such service tax as determined under sub-section *(2)* of Section 73, an the interest payable thereon under section 75, is paid within thirty days from the date of communication of order of the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise determining such service tax, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the service tax so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the service tax determined to be payable is reduced or increased by the Commissioner (Appeal), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the service tax determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent. of the consequential increase of penalty have also been paid within thirty days of communication of the order by which such increase in service tax takes effect.

Explanation.— For the removal of doubts, it is hereby declared that—

(1) the provisions of this section shall also apply to cases in which the order determining the service tax under sub-section *(2)* of section 73 relates to notices issued prior to the day on which the Finance Bill, 2003 receives the assent of the President.

(2) any amount paid to the credit of the Central Government prior to the date of Communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.";

(f) in section 83, for the figures and letter "11D,", the figures and letters "11C, 11D, 12," shall be substituted;

(g) in section 85, in sub-section *(1)*, for the words "penalty under this Chapter" the words "penalty or denying any refund of service tax under this Chapter" shall be substituted;

(h) in section 94, in sub-section *(2),* after clause *(ee),* the following clause shall be inserted, namely:—

"*(eee)* the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service.";

(i) in section 95, after sub-section *(1),* the following sub--section shall be inserted, namely:—

'(1A) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance Act, 2003, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of the Finance Act, 2003 incorporating such taxable services in this Chapter come into force.";

(j) after Chapter V, the following Chapter shall be inserted, namely:—

'CHAPTER VA
Advance Ruling

96A. *Definitions*.— In this Chapter, unless the context otherwise requires,—

(a) "advance ruling" means the determination, by the Authority of a question of law or fact specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided, by the applicant;

(*b)* "applicant" means—

(i) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(ii) a resident setting up a joint venture in India in collaboration with a non-resident; or

(iii) a wholly owned subsidiary Indian Company, of which the holding company is a foreign company,

who proposes to undertake any business activity in India and makes application for advance ruling;

(c) "application" means an application made to the Authority under sub-section *(1)* of section 96;

(d) "Authority" means the Authority for Advance Rulings constituted under section 28F of the Customs Act, 1962; 52 of 1962.

(e) "non-resident", "Indian company" and "foreign company" have the meanings respectively assigned to them in clauses *(30), (26)* and *(23A)* of section 2 of the Income -tax Act, 1961; 43 of 1961.

(f) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise. 1 of 1944.

96B. *Vacancies, etc., not to invalidate proceedings.*— No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existance of any vacancy or defect in the constitution of the Authority.

96C. *Application for advance ruling.— (1)* An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought shall be in respect of, —

(a) classification of any service as a taxable service under Chapter V;

(b) the valuation of taxable services for charging service tax;

(c) the principles to be adopted for the purposes of determination of value of the taxable service under the provisions of Chapter V;

(d) applicability of notifications issued under Chapter V;

(e) admissibility of credit of service tax.

(3) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(4) An applicant may withdraw an application within thirty days from the date of the application.

96D. *Procedure on receipt of application.— (1)* On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner of Central Excise and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Central Excise.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

Provided that the Authority shall not allow the application where the question raised in the application is,—

(a) already pending in the applicant's case before any Central Excise Officer, the Appellate Tribunal or any Court;

(b) the same as in a matter already decided by the Appellate Tribunal or any Court:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section *(2)* shall be sent to the applicant and to the Commissioner of Central Excise.

(4) Where an application is allowed under sub-section *(2),* the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation:— For the purposes of this sub-section, "authorised representative" has the meaning assigned to it in sub-section *(2)* of section 35Q of the Central Excise Act, 1944. 1 of 1944.

(6) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Central Excise, as soon as may be, after such pronouncement.

96E. *Applicability of advance ruling:— (1)* The advance ruling pronounced by the Authority under section 96D shall be binding only—

(a) on the applicant who had sought it;

(b) in respect of any matter referred to in sub-section *(2)* of section 96C;

(c) on the Commissioner of Central Excise, and the Central Excise authorities subordinate to him, in respect of the Applicant.

(2) The advance ruling referred to in sub-section *(1)* shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

96F. *Advance ruling to be void in certain circumstances.— (1)* Where the Authority finds, on a representation made to it by the Commissioner of Central Excise or otherwise, that an advance ruling pronounced by it under sub-section *(4)* of section 96D has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Chapter shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this-sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section *(1)* shall be sent to the applicant and the Commissioner of Central Excise.

96G. *Powers of Authority:— (1)* The Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908. 5 of 1908.

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding 2 of 1973. before the Authority shall be deemed to be a judicial proceeding within the meaning of section 193 and 228, and for the purpose of section 196 of the Indian Penal Code. 45 of 1860.

96H. *Procedure of Authority.*— The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

96-I. *Power of Central Government to make rules.— (1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner for making application under sub-section (1) of section 96C;

(b) the manner of certifying a copy of advance ruling pronounced by the Authority under sub-section *(7)* of section 96D;

(c) any other matter which, by this Chapter, is to be or may be prescribed.

(3) Every rule made under this Chapter shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or to be of no effect, as the case

may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.'.

160. *Amendment of notification issued under section 93 of Act 32 of 1994.— (1)* Notwithstanding the rescission of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R.639(E), dated the 5th November, 1997, issued under section 93 of the Finance Act, 1994, by the Central Government, that notification shall stand amended and shall be deemed to have been amended in the manner specified in the Twelfth Schedule, on and from the 16th day of November, 1997 to the 1st day of June, 1998 (both days inclusive) retrospectively and, accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the notification as amended by this sub-section had been in force at all material times.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected if the amendment referred to in sub-section *(1)* had been in force at all material times.

(3) Notwithstanding anything contained in section 83 of the Finance Act, 1994, an application for claim of refund of the service tax under sub-section *(2)* shall be made within one year from the day on which the Finance Bill, 2003 receives the assent of the President.

(4) For the purposes of sub-section *(1),* the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under section 93 of the Finance Act, 1994 retrospectively at all material times.

CHAPTER VI
Central Sales Tax

161. *Amendment of section 6.* — In the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Sales Tax Act), in section 6, after sub-section *(2),* the following sub-section shall be inserted, namely:— 74 of 1956.

"*(3)* Notwithstanding anything contained in this Act, if—

(a) any official or personnel of—

(i) any foreign diplomatic mission or consulate in India; or

(ii) the United Nations or any other similar international body,

entitled to privileges under any convention to which India is a party or under any law for the time being in force; or

(b) any consular or diplomatic agent of any mission, the United Nations or other body referred to in sub-clause *(i)* or sub-clause *(ii)* of clause *(a),*

purchases any goods for himself or for the purposes of such misssion, United Nations or other body, then, the Central Government may, by notification in the Official Gazette, exempt, subject to such conditions as may be specified in the notification, the tax payable on the sale of such goods under this Act.".

162. *Amendment of section 8.*— In section 8 of the Central Sales Tax Act, in sub-section *(1),* for the portion beginning with the words "shall be liable" and ending with the words "whichever is lower", the following shall be substituted, namely:—

"shall be liable to pay tax under this Act, with effect from such date as may be notified by the Central Government in the Official Gazette for this purpose, which shall be two per cent. of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, or, as the case may be, under any enactment of that State imposing value added tax, whichever is lower:

Provided that the rate of tax payable under this sub-section by a dealer shall continue to be four per cent. of his turnover, until the rate of two per cent. takes effect under this sub-section.".

163. *Amendment of section 20.* — In section 20 of the Central Sales Tax Act,—

(a) in sub-section *(1),* for the words and figure "section 9 of this Act", the words and figure "section 9 of this Act, which relates to any dispute concerning the sale of goods effected in the course of inter-State trade or commerce" shall be substituted;

(b) in sub-section *(2),* for the portion beginning with the words "aggrieved against" and ending with the words and figure "section 9 of this Act", the following shall be substituted, namely:—

"under sub-section *(1)* within forty-five days from the date on which order referred to in that sub-section is served on him:

Provided that the Authority may entertain any appeal after the expiry of the said period of forty-five days, but not later than sixty days from the date of such service, if it is

satisfied that the appellate was prevented by sufficient cause from filling the appeal in time.";

(c) sub-section *(3)* shall be omitted.

164. *Amendment of section 21.*— In section 21 of the Central Sales Tax Act, —

(a) in sub-section *(1),* for the portion beginning with the words "assessing authority concerned" and ending with the words "returned to the assessing authority", the following shall be substituted, namely:—

"assessing authority concerned as well as to each State Government concerned with the appeal and to call upon them to furnish the relevant records:

Provided that such records shall, as soon as possible, be returned to the assessing authority or such State Government concerned, as the case may be.";

(b) in sub-section *(3)*, for the first proviso, the following proviso shall be substituted, namely:—

"Provided that no appeal shall be rejected unless an opportunity has been given to the appellant of being heard in person or through a duly authorised representative, and also to the State Government concerned with the appeal of being heard.".

165. *Amendment of section 23.*— In section 23 of the Central Sales Tax Act, for the words "in all matters", the words "in all matters, including stay of recovery of any demand" shall be substituted.

CHAPTER VII
Miscellaneous

166. *Insertion of new sections 46B and 46C in Act 13 of 1989.*— After section 46A of the Finance Act, 1989, the following sections shall be inserted, namely:—

'46B. *Penalty for failure to pay inland air travel tax to credit of Central Government.*— If any carrier fails to pay to the credit of the Central Government, the inland air travel tax collected by him as required under the provisions of section 42, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

46C. *Offences by companies.*— *(1)* Where any offence under section 46B has been committed by a company, every person who, at the time of the offences was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the said section, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where an offence under section 46B has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.".

167. *Amendment of Second Schedule to Act 21 of 1998.*— In the Finance (No. 2) Act, 1998, in the Second Schedule, for the entry in column *(3),* the entry "One rupee and fifty paise per litre" shall be substituted.

168. *Amendment of Second Schedule to Act 27 of 1999.*— In the Finance Act, 1999, in the Second Schedule, for the entry in column *(3),* the entry "One rupee and fifty paise per liter" shall be substituted.

169. *Amendment of Seventh Schedule to Act 14 of 2001.*— In the Finance Act, 2001, the Seventh Schedule shall be amended in the manner specified in the Thirteenth Schedule and the amendment so made shall cease to have effect on the 1st day of March, 2004, except as respects things done or omitted to be done before such cesser of operation, and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if the amendment so made had then been repealed by a Central Act. 10 of 1897.

THE FIRST SCHEDULE
(*See* section 2)
PART I
INCOME-TAX
Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred

to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of Income-tax

(1) where the total income does not exceed Rs. 50,000	*Nil;*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent. of the amount by which the total incomes exceeds Rs. 50,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,50,000	Rs. 19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, or section 113, shall,—

(i) in the case of every individual or Hindu undivided family, or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax;

(ii) in the case of every person other than those mentioned in item *(i)*, be increased by a surcharge for purposes of the Union calculated at the rate of five percent, of such income-tax:

Provided that in case of persons mentioned in item *(i)* above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of his Paragraph, or in section 112, or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of Income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of Income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every local authority, be increased by a surcharged for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of Income-tax

I. In the case of a domestic company	35 per cent. of the total income;
II In the case of a company other than a domestic company—	
(i) on so much of the total income as consists of,—	
(a) royalties received from Government or an Indian concern in pursuance of an agreeement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or	
(b) fees for rendering technical services received from Government or an	

Indian concern pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April,1976.	
and where such agreement has, in either case, been approved by the Central Government.	50 per cent.
(ii) on the balance, if any, of the total Income.	40 per cent.

Surcharge on income-tax

The amount of Income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112 or section 113, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

PART II

Rates for Deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from Lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent;
(iv) on income by way of insurance Commission	10 per cent;
(v) on income by way of interest payable on—	10 per cent;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) Any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder	20 per cent.;
(vi) on any other income	
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian —	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses *(33)* and *(36)* of section 10]	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern or moneys borrowed or debt incurred by Government or the Indian concern in foreign currency.	20 per cent.;
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(F) on income by way of winnings from horse races	30 per cent.;
(G) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(C) on income by way of winnings from horse races	30 per cent.;
(D) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses *(33)* and *(36)* of section 10]	20 per cent.;
(E) on the whole of the other income	30 per cent.;
.2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	20 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;

(iii) on income by way of winnings from horse races — 30 per cent.;

(iv) on any other income — 20 per cent.;

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(ii) on income by way of winnings from horse races — 30 per cent.;

(iii) on income by way of interest payby Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency. — 20 per cent.;

(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section *(1A)* of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section *(1A)* of section 115A of the Income-tax Act, to a person resident in India—

(A) where the agreement is made before the 1st day of June, 1997 — 30 per cent.;

(B) where the agreement is made on or after the 1st day of June, 1997 — 20 per cent.;

(v) on income by way of royalty [not being royalty of the nature referred to in sub-item *(b) (iv)*] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 — 50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 — 30 per cent.;

(C) where the agreement is made on or after the 1st day of June,1997 — 20 per cent.;

(vi) on income by way of fees for technical services payable by the Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 — 50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June,1997 — 30 per cent.;

(C) where the agreement is made on or after the 1st day of June,1997 — 20 per cent.;

(vii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses *(33)* and *(36)* of section 10] — 20 per cent;

(viii) on any other income — 40 per cent;

Explanation.— For the purpose of item 1*(b) (i)* of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(A) item (1) of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the agreement of such incomes paid or likely to be paid and subject to the deduction exceeds eight hundred and fifty thousand rupees;

(ii) in the case of every co-operative society, firm and local authority, at the rate of two and one-half per cent. of such tax;

(iii) in the case of every artificial juridicial person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated at the rate of two and one-half per cent of such income-tax.

PART III

Rates for charging Income-tax in certain cases, deducting Income-tax from income chargeable under the head "Salaries" and computing "Advance Tax"

In cases in which income-tax has to be charged under sub-section *(4)* of section 172 of the Income-tax Act or sub-section *(2)* of section 174 or section 174A or section 175 or sub-section *(2)* of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax " [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or section 115JB or sub-section *(1A)* of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115 AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridicial person referred to in sub-clause *(vii)* of clause *(31)* of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 50,000	*Nil:*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent. of the amount by which the total income exceeds Rs. 50,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,50,000	Rs.19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 112 shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIIIA, and the income-tax as so reduced; be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item *(i)*, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item *(i)* above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceeds Rs. 10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceeds Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income- tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	35 per cent. of the total income;
II. In the case of a company other than a domestic company—	
(i) on so much of the total income as consists of,—	
(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or	
(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	
and where such agreement has in either case, been approved by the Central Government.	50 per cent.
(ii) on the balance, if any, of the total income.	40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one- -half per cent. of such income-tax.

PART IV

[*See* section 2 (*11*) (*c*)]

Rules for computation of Net Agricultural Income

Rule 1.— Agricultural income of the nature referred to in sub--clause *(a)* of clause *(1A)* of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section *(2)* of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections *(3)* and *(4)* of section 40A.

Rule 2. — Agricultural income of the nature referred to in sub-clause *(b)* or sub-clause *(c)* of clause *(1A)* of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause *(c)*] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections *(3)* and *(4)* thereof], 41, 43, 43A, 43B, and 43C of the Income-tax Act shall, so far as may be , apply accordingly.

Rule 3.— Agricultural income of the nature referred to in sub--clause *(c)* of clause *(1A)* of section 2 of the Income-tax Act, being income derived from any building required as a dwelling--house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause *(C)* shall be computed as if it were income chargeable to income-tax under that Act under the head "income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.— Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) of technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5. — Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6. — Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case

may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.— Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8. — (1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2003, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996, or the 1st day of April, 1997 or the 1st day of April , 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002, is a loss, then, for the purposes of sub-section *(2)* of section 2 of this Act,—

(i) the loss so computed for the pervious year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevent to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002.

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002.

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002.

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002.

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002.

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevent to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002.

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002.

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2003.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2004, or, if by virtue of any provision of the Income-tax Act, Income--tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the year relevant assessment years commencing on the 1st day of April, 1996 or the 1st day of April, 1997, or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April,2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule *(1)* or sub-rule *(2)* shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule *(1)* or, as the case may be, sub-rule *(2)*.

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), shall be set off under sub-rule *(1)* or, as the case may be, sub-rule *(2)*.

Rule 9. —Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil.*

Rule 10.— The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288 A relating to round in off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE
[*See* section 126 (*1*)]

S. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G. S.R. 465(E), dated the 3rd May, 1990 (169/1990--CUSTOMS, dated the 3rd May, 1990)	In the said notification, after condition *(iii)* and before the *Explanation* the following condition shall be inserted, namely:— "(IV) where the licensing authority grants an extension of the period for fulfilment of export obligation in terms of, and subject to the satisfaction of such condition as may be specified in a Public Notice of the Government of India in the Ministry of Commerce and Industry in this regard and the licence holder units are affected by the earthquake which took place in the State of Gujarat in the Month of January, 2001, then, the said period of fulfilment of export obligation may, notwithstanding anything contained in condition *(iii)*, be extended and be deemed to have been extended beyond the 31st day of March, 2002, but shall in no case be extended beyond the 31st day of March, 2004.".	3rd May, 1990.
2.	G.S.R. 423 (E), dated the 20th April, 1992 (160/ /1992-CUSTOMS, dated the 20th April, 1992)	In the said Notification, after condition *(iv)*, the following condition shall be inserted, namely:— "(v) where the licensing authority, in respect of a licence-holder unit affected by the earthquake which took place in the State of Gujarat in the month of January, 2001, grants extension of the period for fulfilment of export obligation, in terms of, and subject to the satisfac-	20th April, 1992.

(1)	(2)	(3)	(4)
		tion of such condition as may be specified in a Public Notice of the Government of India in the Ministry of Commerce and Industry in this regard, the said period of fulfilment of export obligation may be extended and be deemed to have been extended beyond the 31st day of March, 2002, but shall in no case be extended beyond the 31st day of March, 2004.".	

THE THIRD SCHEDULE
[*See* section 127 (*1*)]

S. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 308 (E), dated the 31st March, 1995 (79/95-Customs, dated the 31st March, 1995)	In the said notification, in condition *(iii)*, in sub-section *(b)*, entry "24%", as it stood on the 19th September, 1995, the entry " 15 per cent "shall be substituted.	19th September, 1995.
2.	G.S.R. 309 (E), dated the 31st March, 1995 (80/95-Customs, dated the 31st March, 1995)	In the said notification, in condition *(ii)*, in sub-condition *(b)*, for the entry "24%", as it stood on the 19th September, 1995, the entry "15%" shall be substituted.	19th September, 1995.
3.	G.S.R. 480 (E), dated the 5th June, 1995 (110/95-Customs, dated the 5th June, 1995)	In the said notification,—	
		(i) in each of the conditions *(4)* and *(5)*,for the entry "24%", as it stood on the 19th September, 1995, the entry "15%" shall be substituted;	19th September, 1995.
		(ii) in condition *(7)* after the proviso, the following proviso shall be inserted, namely:—	30th April, 2000.
		Provided further that where the licencing authority grants further extension of the period for fulfilment of export obligation beyond the period as specified in this condition, then, subject to the satisfaction of such condition as may be specified in a Public Notice of the Government of India in the Ministry of Commerce and Industry in this regard, such export obligation may be extended, but shall in no case be extended beyond the 31st day of March, 2004:".	
4.	G.S.R. 657 (E), dated the 19th September, 1995 (148/95-Customs, dated the 19th September, 1995)	In the said notification, in condition *(ii)*, for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	19th September, 1995.
5.	G.S.R. 658 (E), dated the 19th September, 1995 (149/95-Customs, dated the 19th September, 1995)	In the said notification, in condition *(ii*), for the words "twenty-four per cent,", the words "fifteen per cent." shall be substituted.	19th September, 1995.

(1)	(2)	(3)	(4)
6.	G.S.R. 184 (E), dated the 1st April, 1997 (28/97-Customs, dated the 1st April, 1997)	In the said notification, in each of the conditions *(3)* and *(4)* for the entry "24%", the entry "15%" shall be substituted.	1st April, 1997.
7.	G.S.R. 186 (E), dated the 1st April,1997 (30/97--Customs, dated the 1st April, 1997)	In the said notification, in condition *(ii)*, for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	1st April, 1997.
8.	G.S.R. 187 (E), dated the 1st April, 1997 (31/97--Customs, dated the 1st April, 1997)	In the said notification, in condition *(ii),* for the entry "24%", the entry "15%" shall be substituted.	1st April, 1997.
9.	G.S.R 197 (E), dated the 7th April,1997 (34/97--Customs, dated the 7th April, 1997)	In the said notification, in condition *(v)*, for the entry "24%", the entry "15%" shall be substituted.	7 th April, 1997.
10.	G.S.R. 216 (E), dated the 11th April, 1997 (36/97--Customs, dated the 11th April, 1997)	In the said notification, in condition *(3)*, for the entry "24%", the entry "15%" shall be substituted.	11th April, 1997.
11.	G.S.R. 623 (E), dated the 16th October, 1998 (77/98-Customs, dated the 16th October, 1998)	In the said notification, in condition *(iv),* for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	16th October, 1998.
12.	G.S.R. 299 (E), dated the 29th April, 1999 (48/99--Customs, dated the 29th April, 1999)	In the said notification, in condition *(ii)*, for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	29th April, 1999.
13.	G.S.R.366 (E), dated the 27th April, 2000 (50/2000-Customs, dated the 27th April, 2000)	In the said notification, in condition *(3),* for the entry "24%", the entry "15%" shall be substituted.	27th April, 2000.
14.	G.S.R.367 (E), dated the 27th April, 2000 (51/2000-Customs, dated the 27th April, 2000)	In the said notification, in condition *(ii),* for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	27th April, 2000.

THE FOURTH SCHEDULE

[*See* sections 128 *(1)* and 157 *(1)*]

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
1	Tea and tea waste	Rupee one per kg.

THE FIFTH SCHEDULE
(*See* section 148)

' THE THIRD SCHEDULE
[*See* section 2 *(f) (iii)*]

1. In this Schedule, "heading" and "sub-heading" means respectively a heading and sub-heading in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), the Section and Chapter Notes and the General Explanatory Notes of the said First Schedule shall apply to the interpretation of this Schedule.

S. No.	Heading No. or sub-heading No.	Description of goods
(1)	(2)	(3)
1.	0401.14	Concentrated (condensed) milk, whether sweetened or not, put up in unit containers and ordinarily intended for sale
2.	1702.21 or 1702.29	Preparations of other sugars
3.	1702.30	Sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel
4.	1704.10	Gums, whether or not sugar coated (including chewing gum, bubblegum and the like)
5.	1704.90	All goods
6.	18.02	Cocoa powder, whether or not containing added sugar or other sweetening matter
7.	18.03	Chocolates in any form, whether or not containing nuts, fruit kernels or fruits, including drinking chocolates
8.	18.04	Other food preparations containing cocoa
9.	1901.19 or 1901.92	All goods
10.	1902.19	All goods
11.	1904.10	All goods
12.	1905.11	Biscuits, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power
13.	1905.31	Waffles and wafers, coated with chocolate or containing chocolate
14.	1905.39	All goods
15.	2101.10	Extracts, essences and concentrates, of coffee, and preparations with a basis of these extracts, essences or concentrates, or with a basis of coffee
16.	2102.10	All goods
17.	21.05	Ice cream and other edible ice, whether or not containing cocoa
18.	21.06	Pan masala, only in retail packs containing ten grams or more per pack, other than the goods containing not more than 15% betel nut by weight and not containing tobacco in any proportion
19.	21.07	Betel nut powder known as "Supari"
20.	2108.20	Sharbat
21.	2108.99	All goods
22.	2201.19	All goods
23.	2201.20	Aerated waters
24.	2202.19	All goods

(1)	(2)	(3)
25.	2202.20	Aerated waters
26.	22.03	Vinegar and substitutes for vinegar obtained from acetic acid
27.	2404.41	Chewing tobacco and preparations containing chewing tobacco
28.	2404.49	Pan masala containing tobacco
29.	2502.21	White cement, whether or not artificially coloured and whether or not with rapid hardening properties
30.	2710.90	Lubricating oils and Lubricating preparations
31.	3204.30	Synthetic organic products of a kind used as fluorescent brightening agents or as a luminophores
32.	3206.90	All goods
33.	3208, 32.09 or 32.10	All goods
34.	3212.90	Dyes and other colouring matter put up in forms or small packing of a kind used for domestic or laboratory purposes
35.	32.13 or 32.14	All goods
36.	33.03, 33.04 or 33.05	All goods
37.	3306.10	Tooth paste
38.	33.07	All goods
39.	3401.19	All goods
40.	3401.20 or 3402.90	All goods
41.	3403.10	Lubricating preparations
42.	34.05	Polishes and creams, for footwear, furniture, floors, coachwork, glass or metal; scouring pastes and powders and similar preparations (whether or not in the form of paper, wadding, felt, non-wovens, cellular plastics or cellular rubber, impregnated, coated or covered with such preparations), excluding waxes of heading No. 34.04
43.	35.06	Prepared glues and other prepared adhesives, not elsewhere specified or included
44.	3702.90	All goods
45.	3808.10	All goods
46.	3808.90	Disinfectants and similar products
47.	38.14	Thinners
48.	38.19	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70% by wright of petroleum oils or oils obtained from bituminous minerals
49.	38.20	Anti-freezing preparations and prepared de-icing fluids
50.	3824.90	Stencil correctors and other correcting fluids, ink removers put up in packings for retail sale
51.	39.19	Self-adhesive tapes of plastics
52.	3923.10 or 3924.10	Insulated ware
53.	48.16	Carbon paper, self-copy paper, duplicator stencils, of paper
54.	4818.19	Cleansing or facial tissues, handkerchiefs and towels, of paper pulp, paper, cellulose wadding or webs of cellulose fibres
55.	64.01	Footwear
56.	6501.10	Safety headgear

(1)	(2)	(3)
57.	6905.10	Vitrified tiles, whether polished or not
58.	6906.10	Glazed tiles
59.	7321.10	Cooking appliances and plate warmers
60.	7323.10	Pressure cookers
61.	73.24	Sanitary ware of iron or steel
62.	7418.90	Sanitary ware of copper
63.	7615.20	Pressure cookers
64.	82.12	Razors and razor blades (including razor blade blanks in strips)
65.	83.05	Staples in strips, paper clips of base metal
66.	8414.40	Electric fans
67.	84.15	Window room air-conditions and split air-conditioners of capacity up to 3 tonnes
68.	8418.10	Refrigerators
69.	8421.10	Water filters and water purifiers, of a kind used for domestic purposes
70.	8422.10	Dish washing machines
71.	8450.10	Household or laundry type washing machines, including machines which both wash and dry
72.	8496.90	Typewritters
73.	84.70	Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions
74.	84.72	Stapling machines
75.	85.06	Primary cells and primary batteries
76.	85.09	Electro-mechanical domestic appliances with self-contained electric motor
77.	85.10	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor
78.	85.13	Portable electric lamps designed to function by their own source of energy (for example, dry bateries, accumulators, magnetos), other than lighting equipment of heading No. 85.12
79.	85.16	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes
80.	85.17	Telephone sets including telephones with cordless handsets; video phones; facsimile machines
81.	85.19 or 85.20	All goods
82.	85.21	All goods
83.	8523.12	Unrecorded audio cassettes
84.	8523.14	Video cassettes
85.	8523.20	Magnetic discs
86.	8524.34	Video cassettes
87.	8524.40	Magnetic discs
88.	85.25	Pagers, cellular or mobile phones
89.	8527.10	Radio sets including transistor sets, having the facility of receiving radio signals and converting the same into audio output with no other additional facility like sound recording of reproducing or clock in the same housing or attached to it

(1)	(2)	(3)
90.	8527.90	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock
91.	85.28	Television receivers (including video monitors and video projectors), other than monochrome, whether or not incorporating radio broadcast receivers or sound or video recording or reproducing apparatus
92.	85.36	All goods
93.	85.39	Electric filament or discharge lamps, including sealed beam lamp units and ultra-voilet or infrared lamps; Arc lamps
94.	90.06	Photographic (other than cinematographic) cameras
95.	9101.90 or 9102.90	Watches
96.	91.03 or 91.05	Clocks
97.	96.12	All goods
98.	96.17	Vacuum flasks'.

THE SIXTH SCHEDULE

[*See* sections 149 (*1*) and 150 *(1)*]

S. No.	Provisions of the Central Excise Rules, 1944 to be amended	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	Sub-rule (5) of rule 57R of the Central Excise Rules, 1944 as substituted by notification No. G.S.R.324(E), dated the 23rd July, 1996 [14/96--Central Excise (N.T.), dated the23rd July,1996]	In the Central Excise Rules, 1944, in rule 57R, for sub-rule (5), the following sub-rule shall be substituted, namely:— "(5) Credit of specified duty in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods,which the manufacturer claims as depreciation under section 32 of the Income-tax Act, 1961 (43 of 1961).".	23rd day of July, 1996.
2.	Sub-rule (8) of rule 57R of the Central Excise Rules, 1944 as inserted by notification No. G.S.R.122 (E), dated the 1st March, 1997 [6/97-Central Excise,(N.T.), dated the 1st March, 1997]	In the Central Excise Rules,1944, in rule 57R, for sub-rule (8), the following sub-rule shall be substituted, namely:— "(8) Credit of specified duty in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer claims as depreciation under section 32 of the Income-tax Act, 1961 (43 of 1961).".	1st day of March 1977.
3.	Sub-rule (12) of rule 57F of the Central Excise Rules, 1944 as substituted by notification No. G.S.R. 122 (E), dated the 1st March, 1997 [6/97-Central Excise (N.T.), dated the 1st March, 1997]	In the Central Excise Rules, 1944, in rule 57F, in sub-rule(12), the following proviso shall be inserted, namely:— "Provided that the credit of specified duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under the notification numbers 32/99-Central Excise, dated the 8th July, 1999], G.S.R. 508 (E), dated the 8th July, 1999] and 33/99-Central Excise, dated the 8th July,1999 [G.S.R.509(E), dated the 8th July,1999], shall be utilised only for payment of duty on final products cleared after availing of the exemption under the	8th day of July, 1999.

(1)	(2)	(3)
	said notification numbers 32/99-Central Excise dated the 8th July, 1999 and 33/99-Central Excise, dated the 8th July, 1999.".	
4. Clause (b) of sub-rule (1) of the 57AB of the Central Excise Rules, 1944 as substituted by notification No. G.S.R. 203 (E), dated the 1st March, 2000 [11/2000--Central Excise(N.T.),dated the 1st March, 2000]	In the Central Excise Rules, 1944, in rule 57AB, in sub-rule *(1)*, in clause *(b)*, before the *Explanation,* the following proviso shall be inserted, namely:— "Provided that the CENVAT Credit of the duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under the notification numbers 32/99-Central Excise, dated the 8th July, 1999 [G.S.R.508 *(E)*, dated the 8th July, 1999] and 33/99-Central Excise, dated the 8th July, 1999 [G.S.R.509*(E)*, dated the 8th July 1999], shall be utilised only for payment of duty on final products cleared after availing of the exemption under the said notification numbers 32/99-Central Excise, dated the 8th July, 1999 and 33/99-Central Excise, dated the 8th July, 1999.".	1st day of April, 2000.

THE SEVENTH SCHEDULE

[*See* section 151 *(1)*]

Provisions of the CENVAT Credit Rules, 2001 to be amended	Amendment	Date of effect of amendment
(1)	(2)	(3)
Sub-rule (3) of rule 3 of the CENVAT Credit Rules, 2001 as published *vide* notification No. G.S.R.445(E), dated the 21st June, 2001[31/2001-Central Excise (N.T.), dated the 21st June, 2001]	In the CENVAT Credit Rules, 2001, in rule 3, in sub-rule *(3)*, after the proviso, the following proviso shall be inserted, namely:— "Provided further that the CENVAT credit of the duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under the notification numbers 32/99--Central Excise, dated the 8th July, 1999 [G.S.R. 508 *(E)*, dated the 8th July, 1999] and 33/99-Central Excise, dated the 8th July, 1999 [G.S.R.509 *(E)*, dated the 8th July, 1999], shall be utilised only for payment of duty on final products cleared after availing of the exemption under the said notification numbers 32/99-Central Excise, dated the 8th July, 1999 and 33/99-Central Excise, dated the 8th July, 1999.".	1st day of July 2001.

THE EIGHTH SCHEDULE

[*See* section 153 *(1)*]

Sr. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 508(E), dated the 8th July, 1999[32/ /1999-Central Excise, dated the 8th July, 1999]	In the said notification, in paragraph 2, in clause *(b)*, the following proviso shall be inserted, namely:— "Provided that such refund shall not exceed the amount of duty paid less the amount of the CENVAT credit availed of, in respect of the duty paid on the inputs used in or in relation to the manufacture of goods cleared under this Notification.".	8th July, 1999.

(1)	(2)	(3)	(4)
2.	G.S.R.509(E), dated the 8th July, 1999 [33/1999--Central Excise,dated the 8th July, 1999]	In the said notification, in paragraph 2, in clause *(b)*, the following proviso shall be inserted, namely:— "Provided that such refund shall not exceed the amount of duty paid less the amount of the CENVAT credit availed of, in respect of the duty paid on the inputs used in or in relation to the manufacture of goods cleared under this notification.".	8th July, 1999.

THE NINTH SCHEDULE

[*See* section 154 *(1)*]

Sr. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 508 (E), dated the 8th July, 1999 [32/99-Central Excise, dated the 8th July,1999]	In the said notification, in the opening paragraph,—	
		(i) the following proviso shall be inserted at the end, namely:— "Provided that exemption contained in this notification shall not be applicable to—	8th July, 1999.
		(a) cigarettes falling under Chapter 24 of the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); and	
		(b) pan masala containing tobacco, falling under sub-heading No. 2106, 00 or 2404.49, as the case may be, of the First Schedule or the Second Schedule to the said Central Excise Tariff Act.";	
		(ii) for the proviso, as inserted by clause *(i)*, the following proviso shall be substituted, namely:—	1st March, 2001.
		"Provided that the exemption contained in this notification shall not be applicable to the goods falling under Chapter 24;";	
		(iii) after the proviso, the following proviso shall be inserted, namely:—	12th February, 2002.
		"Provided further that exemption contained in this notification shall not be applicable to the goods manufactured and cleared from— (1) Numaligrah Refineries Limited; or (2) Bongaigaon Refineries and Petrochemicals Limited; or (3) Indian Oil Corporation, Guwahati; or (4) Assam Oil Division, Indian Oil Corporation, Digboi.".	
2.	G.S.R. 509 (E), dated the 8th July, 1999 [33/1999--Central Excise, dated the 8th July, 1999]	In the said notification, in the opening paragraph,—	
		(i) the following proviso shall be inserted at the end, namely:—	8th July, 1999.

(1)	(2)	(3)	(4)
		" Provided that exemption contained in this notification shall not be applicable to— (a) cigarettes falling under Chapter 24 of the First Schedule or the Second Schedule to the Central Excise Tariff Act,1985 (5 of 1986); and (b) pan masala containing tobacco, falling under sub--heading No. 2106.00 or 2404.49, as the case may be, of the First Schedule or the Second Schedule to the said Central Excise Tariff Act."; (ii) for the proviso, as inserted by clause *(i)*, the following proviso shall be substituted, namely:— "Provided that the exemption contained in this notification shall not be applicable to the goods falling under Chapter 24.".	1st March, 2001.

THE TENTH SCHEDULE

[*See* section 155 (*a*)]

Part I

In the First Schedule to the Central Excise Tariff Act,—

(1) in Chapter 11, after NOTE 2, the following NOTE shall be inserted, namely :—

'3. In relation to the products of heading No.11.03, labelling or relabelling of containers and repacking from bulk packs to retails packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".';

(2) in Chapter 15,—

(i) after NOTE 3, the following NOTE shall be inserted, namely:—

'4. In relation to the products of sub-heading Nos. 1502.00, 1503.00, 1504.00 and 1508.90, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".';

(ii) in sub-heading Nos. 1502.00, 1503.00, 1504.00 and 1508.90, for the entry in column *(4)* occurring against each of them, the entry "8%" shall be substituted;

(3) in Chapter 24,—

(i) in sub-heading No. 2401.90, for the entry in column *(4)*, the entry "26%" shall be substituted;

(ii) in sub-heading No. 2403.11, for the entry in column *(4)*, the entry "Rs.115 per thousand" shall be substituted;

(iii) in sub-heading No. 2403.12, for the entry in column *(4)*, the entry "Rs. 390 per thousand" shall be substituted;

(iv) in sub-heading No. 2403.13, for the entry in column *(4)*, the entry "Rs. 580 per thousand" shall be substituted;

(v) in sub-heading No. 2403.14, for the entry in column *(4)*, the entry "Rs. 945 per thousand" shall be substituted;

(vi) in sub-heading No. 2403.15, for the entry in column *(4)*, the entry "Rs. 1260 per thousand" shall be substituted;

(vii) in sub-heading No. 2403.19, for the entry in column *(4)*, the entry "Rs.1545 per thousand" shall be substituted;

(viii) in sub-heading No. 2404.10, for the entry in column *(4)* the entry "300%" shall be substituted;

(ix) in sub-heading No. 2404.31, for the entry in column *(4)*, the entry "Rs. 6 per thousand" shall be substituted;

(x) in sub-heading No. 2404.39, for the entry in column *(4)*, the entry "Rs. 15 per thousand" shall be substituted;

(xi) in sub-heading No. 2404.41, for the entry in column *(4)*, the entry "34%" shall be substituted;

(xii) in sub-heading No. 2404.49, for the entry in column *(4)* the entry "34%" shall be substituted;

(xiii) in sub-heading No. 2404.50, for the entry in column *(4)*, the entry "34%" shall be substituted;

(xiv) in sub-heading No. 2404.99, for the entry in column *(4)*, the entry "34%" shall be substituted;

(4) in Chapter 25,—

(i) in sub-heading No. 2502.10, for the entry in column *(4)*, the entry "Rs.250 per tonne" shall be substituted;

(ii) in sub-heading No. 2502.29, for the entry in column *(4)*, for entry "Rs. 400 per tonne" shall be substituted;

(5) in Chapter 36, in sub-heading No. 3605.90, for the entry in column *(4)*, the entry "16%" shall be substituted;

(6) in Chapter 59, in sub-heading No. 5906.91, for the entry in column *(4)*, the entry "16%" shall be substituted ;

(7) in Chapter 73, after NOTE 4, the following NOTE shall be inserted, namely:—

'5. In relation to the pipes and tubes of heading Nos. 73.04 and 73.05, the process of coating with cement or polyethylene or other plastic materials shall amount to "manufacture".';

(8) in Chapter 87, in sub-heading Nos. 8706.29, 8706.42 and 8706.49, for the entry in column *(4)* occurring against each of them, the entry "16% *plus* Rs.10,000 per chassis" shall be substituted.

Part II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)
		"-Other :	
	2710.91	-Superior Kerosene oil	16%
	2710.92	-Aviation trubine fuel	16%
	2710.93	-High speed diesel oil	16%
	2710.94	-Light diesel oil	16% *plus* Rs.1.50 per litre
	2710.95	-Lubricating oil	16%
	2710.99	-Other	16%".

In the first Schedule to the Central Excise Tariff Act, in Chapter 27, for sub-heading No. 2710.90 and the entries relating thereto, the following shall be substituted, namely:—

THE ELEVENTH SCHEDULE

[*See* section 155 *(b)*]

In the Second Schedule to the Central Excise Tariff Act, in sub-heading Nos. 2108.10, 2201.20, 2202.20, 4011.90, 4012.11, 4012.19, 4012.90, 4013.90, 5402.20, 5402.32, 5402.42, 5402.43, 5402.52, 5402.62, 8415.00, 8702.10, 8703.90, 8704.90, 8706.21, 8706.39 and 8706.49, for the entry in column *(4)* occurring against each of them, the entry "8%" shall be substituted.

THE TWELFTH SCHEDULE

[*See* section 160 *(1)*]

Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)

(1)	(2)	(3)
G.S.R. 639 (E), dated the 5th November,1997 [43/97- Service Tax, dated 5th November,1997]	In the said notification, in the opening paragraph,— (a) for clauses *(i)* and *(ii)*, the following clauses shall be substituted, namely:— "(i) any factory registered under or governed by the Factories Act,1948 (63 of 1948), other than a factory registered as small scale industry with the State Government; (ii) any company established by or under the Companies Act, 1956 (1of 1956), other than a company which is solely and exclusively a trading company and is also registered as a private limited company;"; (b) clause *(viii)* shall be omitted.	16th November, 1997.

THE THIRTEENTH SCHEDULE

[*See* sections 134 *(1)* and 169]

In the Seventh Schedule to the Finance Act, 2001 (14 of 2001), after the heading No. 24.04 and its sub-heading No. 2404.99 and the entries relating thereto, the following heading Nos., sub-heading Nos., and entries shall be inserted, namely:—

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)
"27.09	2709.00	Petroleum oils and oils obtained from bituminous minerals,crude	Rs.50 per tonne
54.02	5402.20	-High tenacity yarm of polyesters	1%
	5402.32	-Of polyesters, parially oriented	1%
	5402.42	-Of polyesters, partially oriented	1%
	5402.43	-Of polyesters, other	1%
	5402.52	-Of polyesters	1%
	5402.62	-Of polyesters	1%
87.02	8702.10	-Motor vehicles principally designed for the transport of more than six persons, but not more than twelve persons, excluding the driver, including station wagons	1%
87.03	8703.90	-Other	1%
87.04	8704.90	-Other	1%
87.06	8706.21	-For the vehicles of sub-heading No. 8702.10	1%
	8706.39	-For the vehicles of sub-heading No. 8703.90	1%
	8706.49	-For the vehicles of sub-heading No. 8704.03 or 8704.90	1%
87.11	8711.10	-Two-wheeled motor vehicles of engine capacity not exceeding 75 cubic centimetres	1%
	8711.20	-Two-wheeled motor vehicles of engine capacity exceeding 75 cubic centimetres	1%".

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